

# ZONING ORDINANCE

## Town of Stratham, N.H.



Adopted March, 1987  
as amended through March 2004



2004



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Adopted March, 1987  
as amended through March 2004

Stratham, New Hampshire  
Planning Board

2004



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# ZONING ORDINANCE

# Town of Stratham

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## **SECTION I: AUTHORITY AND PURPOSES**

### **1.1 AUTHORITY:**

This Ordinance is enacted in accordance with the authority conferred in Chapters 673, 674, 675, 676, and 677 of the Revised Statutes Annotated and subsequent amendments thereto and is hereby adopted by the voters of the Town of Stratham, New Hampshire in official meeting convened.

### **1.2 PURPOSES:**

The purposes of this Ordinance are to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Stratham, to protect and conserve the value of property, to encourage the most appropriate use of land throughout the Town, and to promote the efficiency and economy in the process of development by securing safety from fire, panic and other dangers, by providing adequate areas between buildings and various rights-of-way, by preserving the character of the Town, and by promoting good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means.

### **1.3 TITLE:**

This Ordinance shall be known as the "Zoning Ordinance of the Town of Stratham, New Hampshire."

## SECTION II: DEFINITIONS

### 2.1 DEFINITIONS:

Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. The following words are specifically defined.

- 2.1.1 Abutter: Abutter means any person whose property adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- 2.1.2 Accessory Apartment: One apartment, provided it is located within a single-family dwelling and is clearly a subordinate part thereof, and has safe and proper means of entrance and exit, and meets the requirements set forth in Section 5.4. (Rev. 3/90)
- 2.1.3 Accessory Building: A building whose purpose is subordinate to that of the main building. It may be separate from or attached to the main building. For the purpose of this Ordinance a breezeway, a garage or a carport that is attached directly, or by means of another structure, to the main building shall be regarded as an integral part of the main building.
- 2.1.4 Accessory Use: Any subordinate use of premises which customarily is accepted as a reasonable corollary to the principal use thereof and which is neither injurious nor detrimental to the neighborhood.
- 2.1.5 Adult Use: A business where more than 25% of the gross revenues, 25% or more of the stock in trade, or 25% or more of the goods or paraphernalia displayed are of a sexually oriented or sexually explicit nature. Such goods and paraphernalia include, but are not limited to sexually explicit books, videos, or devices. Examples of adult uses include, but are not limited to, theaters or mini-motion picture displays where sexually explicit films or videos are shown, nude modeling studios, massage parlors, escort agencies or sexual encounter centers. Businesses where body piercing and tattoos are performed shall be considered adult uses unless completed by a licensed physician in their place of practice. (Rev. 3/93) (Rev. 3/99)
- 2.1.6 Agriculture, Farm, Farming: The word "farm" shall mean any land and/or buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence or residences of owners, occupants, or employees whose residency and occupancy on the property is solely related to the operation of the agricultural and farming operations.



The words "agriculture" and "farming" shall mean all operations of a farm such as the cultivation, conserving and tillage of the soil, dairying, greenhouses, the production, cultivation, growing and harvesting of any agricultural, floricultural, or horticultural commodities, the raising of livestock, bees, fur bearing animals, poultry or fish-farming or any practices on the farm as an incident to or in conjunction with such farming operations including but not necessarily restricted to, the following: (Rev. 3/96)

Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; forestry or lumbering operations; the marketing or selling, at wholesale or retail or in any other manner, any products from the farm and of other related supplies that do not exceed in average yearly dollar volume the value of products from the farm.

- 2.1.7 Alteration: Any alteration of a building or a fabricated structure means a change, rearrangement, or addition involving the original structural parts, or significant changes, or additions to the plumbing, gas piping, electrical wiring, ventilation, or heating installations. Such alterations are not to be confused with replacements or repairs.
- 2.1.8 Bedroom: A room primarily used for sleeping.
- 2.1.9 Building: A fabric, edifice, or structure, framed or constructed, designed to stand more or less permanently, and covering a space of land for use as a dwelling, storehouse, factory, shelter for beasts or some other useful purpose. (Rev. 3/90)
- 2.1.10 Building Coverage: The aggregate or the maximum horizontal cross section area of all buildings on the lot including accessory buildings but excluding cornices, eaves, or gutters projecting not more than thirty (30) inches. Structures less than eighteen (18) inches above ground level shall not be included in calculating building coverage.
- 2.1.11 Building Inspector: The duly appointed building inspector, or any other duly designated agent, as appointed by the Board of Selectmen. Such agent(s) shall possess and be vested with all the rights, authority, responsibility and protections accorded the building inspector within the jurisdiction of his/her appointment by the Selectmen. (Rev. 3/92)
- 2.1.12 Building Height: The vertical distance measured from the average level of the grade at the building line to the highest point of the roof, excluding chimneys, ventilators, silos, and other accessory features required above the roof.
- 2.1.13 Certificate of Occupancy: A statement signed by the Building Inspector setting forth either that a building or structure complies with this Ordinance or that a building, structure or parcel of land may lawfully be occupied for specified uses or both.

- 2.1.14 Condominium: Real property, and any interests therein, lawfully submitted to RSA 356-B by the recordation of condominium instruments pursuant to the provisions of RSA 356-B.
- 2.1.15 Contiguous: Starting an edge or boundary of an adjacent lot.
- 2.1.16 Demolition: Destruction of a structure or portion thereof or commencement of work with the purpose of completing the same except in conjunction with construction of a permitted addition or alteration. Demolition shall include the cutting away of any wall, partition, portion thereof, or the removal or cutting of any structured beam or bearing support affecting the exterior of the structure.
- 2.1.17 Developable Area: An area of 43,560 square feet or minimum lot size as defined by soil type lot size regulations as adopted by the Town of Stratham.
- 2.1.18 Duplex: A building designed and/or used exclusively for residential purposes and containing two principal dwelling units separated by a common party wall or otherwise structurally attached. **(Rev. 3/90)**
- 2.1.19 Dwelling: A building or portion thereof containing one or more dwelling units, but not including hotels, motels, rooms or a boarding house, clubs, lodges, trailers, or structures solely for transient or overnight occupancy.
- 2.1.20 Dwelling Unit, Single Family: A detached building designed for or occupied exclusively by one family.
- 2.1.21 Excavation: Excavation means a land area which is used, or has been used, for the commercial taking of earth, including all slopes, pursuant to RSA 155-E:1.
- 2.1.22 Family: Individuals occupying a dwelling unit and living together as a single housekeeping unit and doing their cooking together, provided that unless all members are related by blood, marriage, adoption, or legal custody no such family shall contain more than five persons.
- 2.1.23 Frontage: The horizontal distance measured along a lot line dividing a lot from a street. Driveways to single rear lots shall not be construed as frontage. In the case of corner lots, frontage and front lot lines shall mean the dimensions and lines on one street. **(Rev. 3/95)**
- 2.1.24 Gross Floor Area: The sum of the area of the several floors of the buildings as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and attics exclusively devoted to uses accessory to the operation of the building.

- 2.1.25 Home Occupation: Any individual business or profession conducted entirely within a dwelling or accessory building which is incidental to the dwelling and which does not change either its character or that of the neighborhood in which it is established and which is conducted by the resident owner of the dwelling, employs not more than two persons outside the immediate family and utilizes an area less than twenty five percent (25%) of the total floor area of finished floor space of the dwelling including the basement.
- 2.1.26 Junk: Two or more uninspected motor vehicles no longer intended or in condition for legal use on the public highways; and/or any machinery, scrap metal or other worn, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion to some use, the accumulation of which is detrimental or injurious to the neighborhood. (Rev. 3/98)
- 2.1.27 Junk Yard: Any space more than 500 sq. ft. in area, outside a building, used for storage, keeping, processing, salvaging or abandonment of junk.
- 2.1.28 Kennel: Any premises, site, or portion thereof, where 5 or more dogs 10 weeks in age or older are bred, raised, trained, or kept for any reason. This definition does not include sites that are accessory to a veterinarian hospital where a licensed veterinarian practices or the SPCA. (Adopted 3/97)
- 2.1.29 Light Industry: Includes all manufacturing and assembly processes carried on completely within a structure, and involving no permanent outside storage of equipment or materials (except as a customary accessory use in connection with the permitted activities within the structure), unless such storage is approved by the Stratham Planning Board during the Site Plan Review process. Outdoor storage shall be permitted as an accessory use to a permitted use if it occupies an area of 20 percent or less of the footprint area of the principal building. Otherwise, outdoor storage shall require a special exception. All outdoor storage shall be appropriately screened from view and shall not occupy required open space or required parking areas. Light Industry shall not be interpreted to include any industry, the operations of which shall result in significant objectionable noise, glare, vibration or odor which would constitute a nuisance nor which would adversely affect other private or public properties. (Adopted 3/98)
- 2.1.30 Lot: A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds and having its principal frontage on a street in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for building on such land.
- 2.1.31 Lot Area: The extent in square feet of the surface of a lot. The lot area shall not include any part of the street upon which the lot fronts or abuts.
- 2.1.32 Lot Depth: The mean distance from the frontage line to the rear lot line when measured on a line halfway between the two side lot lines.

- 2.1.33 Lot Lines: The lines bounding a lot, and dividing the lot from other lots, streets or land.
- 2.1.34 Lot of Record: A lot which is described in a deed which has been lawfully recorded in the Rockingham County Registry of Deeds, prior to the enactment of planning and zoning regulations in Stratham (~~June 10, 1959~~ **March 12<sup>th</sup>, 1957**), or which, if not so deeded, is a lot which is part of a subdivision, the plan of which has been lawfully recorded in such Registry of Deeds.
- 2.1.35 Lot Width: The mean distance between the lot sidelines measured on a line, which is halfway between the front and rear lot lines.
- 2.1.36 Manufactured Housing: Manufactured housing is housing which is partially or wholly assembled off-site and then is placed on a permanent foundation. Manufactured housing may include trusses, panels, or entire modules.
- 2.1.37 Mobile Homes: Housing which is assembled off-site, built on a permanent chassis, can travel to the site on its own wheels and retain forever the possibility of being relocated readily to another site. Mobile homes typically are not placed on permanent foundations, but rest on grade or a slab with skirts to conceal the wheels and undercarriage.
- 2.1.38 Motel, Hotel: A building designed for or used commercially as more or less temporary living quarters for persons who are lodged with or without meals, containing nine or more sleeping rooms usually occupied by transients.
- 2.1.39 Non-Conforming Use: Nonconforming means use of land, building or premise which is not a use permitted by the provisions of this ordinance for the district in which such land, building or premise is situated.
- 2.1.40 Occupancy: The use of a structure, room or enclosed space designed for human habitation in which individuals congregate for amusement, education or similar purposes, or in which occupants are engaged at labor, where the structure, room or enclosed space is equipped with means of egress, light, and ventilation facilities meeting the requirements of the Town's Building Ordinance. (Rev. 3/94)
- 2.1.41 Open Space: Land or water area free of all structures, parking, drives, and other uses, which preclude attractive landscaping in such area. Open space may be landscaped with lawn, trees, shrubs, or other planting and may include walks and terraces.
- 2.1.42 Open Space Setback: The distance extending across the full width of a lot between the front, side and rear lot lines and the nearest point of the nearest part of any constructed or erected improvement, such as gravel, pavement and other man-made improvements, but exclusive of drainage structures, septic systems, access drives and walkways. Exclusive of access drives and walkways, the distance between the property line and improvement shall be open to the air and in accordance with 2.1.41, Open Space, of this ordinance. (Rev. 3/96)

- 2.1.43 Professional (Professional Office): These occupations shall include the practice of medicine, dentistry, law, accounting, architecture, engineering, real estate, teaching and similar activities in which specialized services are provided to clients.
- 2.1.44 Recreational Camping Parks or Trailer Parks: A parcel of land under single ownership consisting of a minimum of ten (10) acres used primarily for transient recreational vehicles (tents, travel trailers, tent campers, motor homes and pick-up campers).
- 2.1.45 Repair: Replacement or mending of parts already existing but in a state of deterioration with equivalent materials and for the purpose of maintaining their quality.
- 2.1.46 Retirement Planned Community: Any development of three (3) or more dwelling units in detached or multi-unit building(s) which is planned generally as a retirement community for elderly persons and which includes legal covenants and restrictions which are designed to promote the use and occupancy of such building(s) principally by persons 55 years of age or older. **(Adopted 3/99)**
- 2.1.47 Right-of-Way: All town, state and federal highways and the land on either side as covered by statutes to determine the widths of the rights-of-way.
- 2.1.48 School: An institution for instruction of children and/or adults in a formal setting with a prescribed curriculum and certified teachers.
- 2.1.49 Self Storage or Warehousing: A business or use that consists of individual, self contained units, that may or may not vary in size, that are leased or owned for the storage of business equipment, supplies, household goods, or other items. **(Adopted 3/99)**
- 2.1.50 Setback, Front: The distance extending across the full width of a lot between the front lot line and the foremost point of the foremost part of the structure. In the case of a corner lot the front setback shall mean the distance measured from both intersecting streets. **(Rev. 3/95)**
- 2.1.51 Setback, Rear: The distance extending across the full width of a lot between the rear lot line and the rearmost point of the rearmost part of the structure nearest the rear lot line. **(Rev. 3/90)**
- 2.1.52 Setback, Side: The distance between a side lot line and the nearest point of the nearest part of a structure to it, extending from the required front setback to the required rear setback. **(Rev. 3/90)**
- 2.1.53 Sign: Any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business. A sign shall include writing, representation, or other figure of similar character within a building only when illuminated and located in a window.
- 2.1.54 Sign, Attached: A sign which is attached to a building wall and which extends eighteen (18) inches or less from the face of such wall.

- 2.1.55 Sign, Contractor's: A temporary sign advertising the contractor or development firm actively engaged in developing the site or parcel on which the sign is located. (Rev. 3/93)
- 2.1.56 Sign, Flashing: Any sign or signal light with continuously variable illumination, whether achieved electrically or mechanically.
- 2.1.57 Sign, Free Standing: A sign which is not attached or affixed to a structure or building and which is supported by a pole(s) or other supporting members.
- 2.1.58 Sign, Projecting: A sign which is attached to a building wall and which extends more than eighteen (18) inches from the face of such wall.
- 2.1.59 Sign, Real Estate: A temporary sign used by a real estate organization to advertise the site or parcel on which the sign is located. (Rev. 3/93)
- 2.1.60 Sign, Surface Area Of: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such perimeter, which do not form an integral part of the display. For projecting or double-faced signs, only one (1) display space shall be measured in computing total surface area where the sign faces are parallel or where the interior angle formed by the faces is ninety (90) degrees or less.
- 2.1.61 Special Exception: A use allowed by the Zoning Ordinance but under pre-determined conditions and after a public hearing before the Board of Adjustment to determine if the conditions have been met.
- 2.1.62 Story: That part of a building or structure comprised between a floor and the floor or roof next above it.
- 2.1.63 Street: A street shall mean a right-of-way which has been dedicated or intended for public travel, or a private way offering the principal means of access to abutting properties.
- 2.1.64 Structure: Anything constructed or erected, the use of which demands its permanent location on the land, or anything attached to something permanently located on the land. This definition shall include the tank and leaching bed of a septic system (but not the lateral fill extension of a leach field). (Rev. 3/90)
- 2.1.65 Structural Alteration: Any change in the supporting members of a building or structure, such as load bearing walls, columns, beams or girders.
- 2.1.66 Subdivision: The division of a lot, tract, or parcel of land into 2 or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes resubdivision, and, where appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision under this title, per RSA 672:14.

- 2.1.67 Travel Trailer: A mobile home designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty-five hundred (4,500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.
- 2.1.68 Wetland: Any area falling within the jurisdictional definitions of Stratham Wetland Conservation District.
- 2.1.69 Yard: An open space from the ground upward and open to the sky on the same lot with a building or a structure.
- 2.1.70 Yard, Front: A yard extending across the full width of a lot between the street right-of-way line and the nearest point of any building. In the case of a corner lot or waterfront lot, the front yard is the yard bordering the principal street. Front yard dimensions are to be measured from the street where a plan of the street is on file with the Registry of Deeds or in the Town records, or in the absence of such plan, from a line thirty (30) feet from property line, parallel with the center line of the traveled way. (Rev. 3/91)
- 2.1.71 Yard, Rear: A yard extending the full width of the lot along the rear lot line and extending in depth from the nearest point on the rear lot line to the nearest point of the principal building or buildings.
- 2.1.72 Yard, Side: A yard extending from a front yard to the rear yard and from the nearest point of a side lot line to the nearest point of the principal building or buildings.

## SECTION III: ESTABLISHMENT OF DISTRICTS AND USES

### 3.1 ESTABLISHMENT OF DISTRICTS:

For the purpose of this Ordinance, the Town of Stratham is hereby divided into the following districts:

<u>District Name:</u>	<u>Abbreviation:</u>
-----------------------	----------------------

Residential/Agricultural .....	R/A
Manufactured Housing/Mobile Home.....	MAH
Professional/Residential.....	PRE
Town Center.....	TC
General Commercial.....	GCM
Commercial/Light Industrial/Office.....	CLIO
(Rev. 3/98)	
Industrial.....	IND
Wetlands Conservation (overlay).....	WTC
Shoreland Protection (overlay).....	SHP
Floodplain Management District (overlay).....	FM
(Rev. 3/91)	
Aquifer Protection District (overlay).....	APD
(Rev. 3/92)	
Retirement Planned Community.....	RPC
(Adopted 3/99)	

### 3.2 LOCATION:

Said districts are located and bounded as shown on a map entitled Zoning Map, Town of Stratham, New Hampshire, copies of which are on file and may be obtained in the Town Offices. The Zoning Map, with all explanatory material thereon, is hereby made a part of this Ordinance and may be reissued by the Planning Board to incorporate such amendments as may be made by the Town Meeting. This official Zoning Map shall be the final authority as to the current zoning status of land in the Town.

### 3.3 INTERPRETATION OF DISTRICT BOUNDS:

The location of district boundary lines shown upon the Zoning Map shall be determined as follows:

- 3.3.1 Where a boundary is shown as following a street or utility, the boundary shall be the centerline thereof unless otherwise indicated.



- 3.3.2 Where a boundary is shown outside of a street or utility and is approximately parallel thereto, it shall be deemed parallel to the nearest line thereof and the figure placed on the Zoning Map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line unless otherwise indicated.
- 3.3.3 Where a boundary is shown as following a watercourse, the boundary shall coincide with the centerline thereof as said centerline existed at the date of the Zoning Map.
- 3.3.4 Where a boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as one existing at the time of enactment of this Ordinance<sup>(1)</sup>.
- 3.3.5 Where a district boundary line divides a lot, either zoning district shall be interpreted as extending twenty (20) feet into the adjacent district<sup>(2)</sup>.
- 3.3.6 In case of uncertainty, the Planning Board shall determine the exact location of the Boundary<sup>(3)</sup>.
- (1) For that portion of the GCM east of Route 108, the northern boundary of the district shall conclude at the northernmost property line of Map 9, Lot 14, not to exceed the district's existing depth of 800 feet (Rev. 3/92, 3/96)
- (2) For that portion of the TC district east of Route 33, the northern boundary of the district shall conclude at the northernmost property line of Map 11, Lot 27-1, not to exceed the district's existing dept of 800 feet (Rev. 3/94, 3/96).
- (3) Stratham Tax Map 10, Lot 16 (known as the Stratham Circle) is entirely within the Town Center district (Rev. 3/01).
- (4) [next page] The Stratham Zoning Map was amended to include in the Professional/Residential district, the property on Emery Lane, Map 10, Lot 4, located on the east side of Emery Lane with frontage on both Emery Lane and Portsmouth Ave. (Rev. 3/96); and amended to include in the Professional/Residential district, the property south of Bunker Hill Avenue and east of Portsmouth Ave. (Tax Map 9 Lots 11, 12 & 13)(Rev. 3/98).

### 3.4 **DISTRICT PURPOSES:**

The following purposes are hereby established for each of the districts:

- 3.4.1 **Residential/Agricultural:** The intent of this district is to provide for open space conservation, agricultural use, and predominantly low density residential development on individual lots or in cluster developments, which can be accommodated on the land without major disruptions of the natural terrain, vegetation, watercourses or surface drainage and which would not customarily have Town water and sewers.
- 3.4.2 **Manufactured Housing/Mobile Home:** The intent of this district is to provide predominantly manufactured housing, mobile home or single family housing on individual lots or in cluster developments which can be accommodated on the land without major disruptions of the natural terrain, vegetation, watercourses or surface drainage and which would not customarily have Town water or sewers.

- 3.4.3 **Professional/Residential:**<sup>(4)</sup> The intent of this district is to permit professional and residential uses in areas on streets with high traffic volumes which now have a mixture of residential and professional uses but where the trend has been conversion to professional use. These areas are frequently abutted on the rear by residential neighborhoods. The intent is to permit limited professional and personal service use while buffering residential neighborhoods from disturbance and disruption.
- 3.4.4 **Town Center:** The intent of this district is to provide limited commercial, institutional, professional, and personal service uses in the Town Center along with residential uses. The intent is to define the Town Center area and encourage uses suitable to a pedestrian scale.
- 3.4.5 **General Commercial:** The intent of this district is to permit general commercial uses in areas on streets with high traffic volumes and to buffer abutting residential neighborhoods from disturbance and disruption.
- 3.4.6 **Commercial/Light Industrial/Office:** The intent of this district is to provide land in appropriate locations for commercial, office, and light industrial uses which are similar in nature, and which improve employment opportunities and strengthen the economic base of the town. Such activities should not adversely affect the natural environment, adjacent residential areas or community facilities. However, in order to preserve appropriate land for such uses, residential uses and some types of commercial and industrial uses are not allowed. In order to maintain this protection, this zone contains more stringent buffer requirements for neighboring residential zones and uses. **(Adopted 3/98)**
- 3.4.7 **Industrial:** The intent of this district is to provide areas for research and development, manufacturing, processing, assembly, wholesaling, and transportation-oriented activities and related services as trucking and warehousing providing that such uses are determined not to be injurious or hazardous to the public health, safety, and/or welfare.
- 3.4.8 **Wetlands Conservation (overlay):** The intent of this overlay district is to provide protection for and appropriate use of lands which are delineated as poorly drained or very poorly drained soils identified by the U.S. Department of Agriculture, Soil Conservation Service, through field mapping surveys and shown on its field mapping photographic sheets for the Town of Stratham, New Hampshire.
- 3.4.9 **Shoreland Protection (overlay):** The intent of this district is to promote the preservation and maintenance of surface water quality, conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas, preserve and enhance those aesthetic values associated with natural shoreline and encourage those uses that can be appropriately located adjacent to shoreline.
- 3.4.10 **Floodplain Management District (overlay):** The intent of this district is to maintain the flood carrying capacity of the surface waters of Stratham by discouraging the alteration of floodway, and by promoting building practices within the Town's flood hazard areas which are consistent with minimizing flood damage to land and property. **(Rev. 3/91)**

- 3.4.11 **Aquifer Protection District (overlay):** The intent of this district is to protect, preserve, and maintain potential groundwater supplies and related groundwater recharge areas within Town. (Rev. 3/92)
- 3.4.12 **Retirement Planned Community District:** The intent of this district is to provide a location for elderly housing that recognizes the specific needs for residents 55 years of age and older. This district encompasses Tax Map 2, Lot 15 and a tract of land adjoining the Stratham/Exeter Town Line as shown on a plan recorded at the Rockingham County Registry of Deeds as Plan #D-25288. (Adopted 3/99)

### 3.5 **USE REGULATIONS:**

- 3.5.1 The Table of Uses, Table 3.6, specifies the uses that are permitted by right, are permitted by special exception, are permitted by conditional use permit, or are prohibited. Permitted uses are designated in the Table with a P; uses which require the granting of a special exception by the Board of Adjustment are designated with an S; uses which require a conditional use permit from the Planning Board are designated with a C; and prohibited uses are designated with an X. The Wetlands Conservation District is an overlay district and information is in Section XI. Additional explanation on Shoreland Protection District, which is also an overlay, is in Section XII.
- For any use not specifically listed in the Table, the Planning Board shall determine whether the proposed use is of the same general character as the uses allowed in the Table. If the Board determines it is of the same general character, then the use will be allowed. If the Board determines that it is not of the same general character, then it shall not be permitted. (Rev. 3/88)
- 3.5.2 All uses illustrated in Section 3.6 shall be subject to the limitations delineated in other Sections of this Ordinance. In cases of conflict, the more restrictive interpretation shall apply.
- 3.5.3 All buildings or structures hereafter erected, reconstructed, altered, enlarged, or moved, or all future uses of premises in the Town of Stratham shall be in conformity with the provisions of this Ordinance. Any building, structure, or land shall not be used for any manner other than is permitted in the district in which it is located.
- 3.5.4 A permit for the construction, alteration, enlargement, moving, or demolition or use of a building or structure shall not be issued by the Building Inspector unless it complies with this Ordinance and/or has been granted a variance or special exception by the Board of Adjustment.
- 3.5.5 The uses within the Retirement Planned Community shall be those as defined under the definition of "Retirement Planned Community." (Adopted 3/99)

- 3.5.6 Privately owned sewage treatment plants, for which the Town does not hold or co-hold the discharge permit, are prohibited. Such plants do not include facilities which discharge to conventional septic tanks and leach field systems as regulated under RSA 149-E. **(Rev. 3/89) (Rev. 3/99)**

**3.6 TABLE OF USES: (Rev. 3/98)****ZONING DISTRICT:\***

<b>USES:</b>		<b>R/A</b>	<b>MAH</b>	<b>PRE</b>	<b>TC</b>	<b>GCM</b>	<b>CLIO</b>	<b>IND</b>
<b>A. RESIDENTIAL USES:</b>								
1.	Single-Family Dwelling.	P	P	P	P	X	X	X
2.	Two-Family Dwelling.	P	P	P	P	S	X	X
3.	Cluster Developments <i>by conditional use permit</i> in accordance with Section VIII of this Ordinance. (Rev. 3/99)	C	X	C	C	C	X	X
4.	Manufactured Housing;	P	P	X	X	X	X	X
	Mobile Homes; in accordance with Section IX of this Ordinance.	X	P	X	X	X	X	X
5.	Home Occupations in accordance with Section 2.1.25. (Rev. 3/91)	S	S	S	X	X	X	X
6.	Accessory Apartments in accordance with Section 5.4. (Rev. 3/90)	S	S	S	S	X	X	X
<b>B. TEMPORARY RESIDENTIAL USES:</b>								
1.	Overnight and Day Camps, Cottage Colonies, Vacation Resorts, and similar Recreational Facilities.	S	S	X	X	X	X	X
2.	Bed and Breakfast Inns.	S	S	S	P	P	P	X
3.	Hotels, Motels and Hostels. (Rev. 3/98)	X	X	X	P	P	C	X

\*See 3.1 for District names/abbreviations.

3.6 **TABLE OF USES: (continued)****ZONING DISTRICT:**

<b>USES:</b>		<b>R/A</b>	<b>MAH</b>	<b>PRE</b>	<b>TC</b>	<b>GCM</b>	<b>CLIO</b>	<b>IND</b>
<b>C. <u>OUTDOOR/RECREATIONAL USES:</u></b>								
1.	Forestry, Wildlife, Timber Preserves, Reservoirs, and Nature Study areas.	P	P	P	P	P	P	P
2.	Public Parks and Playgrounds.	P	P	P	P	P	S	S
3.	Commercial Riding Stables and Riding Trails.	S	S	X	X	X	X	X
4.	Historic Building or Site open to public.	P	P	P	P	P	P	P
5.	Recreational Camping Parks, Recreational Areas, Residential Tenting and Recreational Vehicles.	S	S	X	X	X	X	X
<b>D. <u>AGRICULTURAL/FORESTRY USES:</u></b>								
1.	Farming including Dairying, Livestock, Animal and Poultry Raising, Crop Production, including customary accessory uses.	P	P	P	S	P	P	S
2.	Tree Farming, Commercial Timbering, Non-commercial Harvesting of Forest Products.	P	P	X	P	P	P	S

**3.6 TABLE OF USES: (continued)****ZONING DISTRICT:**

<b>USES:</b>		<b>R/A</b>	<b>MAH</b>	<b>PRE</b>	<b>TC</b>	<b>GCM</b>	<b>CLIO</b>	<b>IND</b>
<b>E.</b>	<b><u>INSTITUTIONAL USES:</u></b>							
1.	Private Schools, Nursery through College.	S	S	X	S	S	S	S
2.	Day-Care Facilities. (Rev. 3/95)	S	S	S	S	S	C	S
3.	Senior Citizen Centers.	S	S	S	P	X	C	X
4.	Non-profit Lodges and Fraternal Organizations.	S	S	X	S	X	X	S
5.	Hospitals, Clinics, Nursing Homes and Rehab. Centers.	X	X	X	S	S	S	S
6.	Funeral Home or Parlor.	X	X	X	S	S	S	X
7.	Place of worship plus customary ancillary facilities. (Rev. 3/89)	S	S	P	P	X	X	X
8.	Cemetery.	P	P	P	P	X	X	X
9.	Public Utilities.	S	S	S	S	S	S	S
10.	Municipal Buildings.	P	P	P	P	P	P	P

**3.6 TABLE OF USES: (continued)****ZONING DISTRICT:**

<b>USES:</b>	<b>R/A</b>	<b>MAH</b>	<b>PRE</b>	<b>TC</b>	<b>GCM</b>	<b>CLIO</b>	<b>IND</b>
<b>F. <u>COMMERCIAL USES:</u></b>							
1. Retail Sales & Service.	X	X	X	P	P	P	S <sup>1</sup>
2. Business Services.	X	X	X	P	P	P	P
3. Professional Services.	X	X	P <sup>2</sup>	P	P	P	P
4. Banks & Lending Institutions.	X	X	S	P	P	P	P
5. Restaurants.	X	X	X	P	P	P	X
6. Filling Stations, Service Stations.	X	X	X	S	P	X	X
7. Motor Vehicle Dealerships, Repair Garages, Body Shops, Paint Shops. (Rev. 3/99)	X	X	X	X	P	X	X
8. Veterinary Hospitals.	X	X	X	P	P	P	X
9. Kennels, with a minimum lot size of five acres and a structure setback of a minimum of 100 feet from all lot lines.	S	X	X	X	S	S	X
10. Airports, Runways, Control Towers, Administration Buildings, Hangers.	X	X	X	X	X	X	X
11. Society for Prevention of Cruelty to Animals. (Rev. 3/97)	S	X	P	X	X	X	X
12. Adult Uses. (Adopted 3/93)	X	X	X	X	S <sup>3</sup>	X	X
13. Special Promotional Sales & Displays <sup>4</sup> . (Adopted 3/96)	X	X	X	P	P	P	X
14. Self Storage or Warehousing (Adopted 3/99)	X	X	X	X	C <sup>5</sup>	C <sup>5</sup>	X



**3.6 TABLE OF USES: (continued)****ZONING DISTRICT:**

<b>USES:</b>		<b>R/A</b>	<b>MAH</b>	<b>PRE</b>	<b>TC</b>	<b>GCM</b>	<b>CLIO</b>	<b>IND</b>
<b>G.</b>	<b><u>INDUSTRIAL USES:</u></b>							
1.	Manufacturing, Assembly, Fabricating Operations.	X	X	X	X	X	C	P
2.	Research and Development, Corporate, and Business Offices.	X	X	X	P	P	P	P
3.	Warehousing and Wholesaling Operations.	X	X	X	X	S	C	P
4.	Freight and Trucking Terminals.	X	X	X	X	S	C	S
5.	Bulk Storage and Distribution of Goods, except Fuels.	X	X	X	X	X	C	P
6.	Bulk Storage of Fossil Fuels.	X	X	X	X	X	X	X
7.	Earth Products Removal subject to the provisions of Section X.	P	P	X	X	P	P	P
8.	Commercial Sawmills.	X	X	X	X	S	X	S
9.	Junk Yards, Recycling enters.	X	X	X	X	X	X	S
10.	Special Promotional Sales & Displays <sup>4</sup> . (Adopted 3/96)	X	X	X	P	P	P	X
11.	Light Industrial. (Adopted 3/98)	X	X	X	X	P <sup>6</sup>	P	P

**FOOTNOTES TO TABLE 3.6: (Rev. 3/99)**

1. Retail Sales/Service: May be permitted in the Industrial Zone as a special exception provided the proposed use is carried out on a limited or incidental basis only; the products sold must be manufactured or distributed by the parent company; the space devoted to retail sales shall not exceed 2,000 square feet; the activity will create only a small amount of additional traffic; the activity will be carried on in such a manner as not to create a nuisance to abutting landowners and/or tenants, and; the use must comply with the Town's parking specifications as delineated in Section VI. **(Rev. 3/91)**
2. In the professional residential district, new office structures on the west side of Route 108 will be limited to a 1600 sq. ft. footprint. Buildings on the east side do not have that limitation. **(Rev. 3/96)**
3. Special Exceptions for Adult Uses: Adult uses shall satisfy all of the following criteria for a special exception: **(Rev. 3/93)**
  - a. No adult use shall be located within 1,000 feet of the property line of a church, cemetery, school, day care center, or within 500 feet of a property line of a residence.
  - b. No sexually explicit material or advertising shall be visible from outside the building.
  - c. No private viewing rooms or booths shall be constructed unless one side is always open to a public central area.
  - d. No one under the age of 18 shall be permitted inside such a use and a procedure shall be developed to keep those under 18 from entering.
4. Special Promotional Sales and Displays: Shall be allowed by permit only and shall be limited per business to eight (8) days annually, with each promotional period not to exceed four (4) consecutive days in length. Such a permit shall be issued by the Code Enforcement Officer. The setback requirements shall comply with Section IV: Dimensional\_Requirements of this Ordinance. **(Adopted 3/96)**
5. Self-Storage or Warehousing: Shall only be permitted by Conditional Use Permit and in accordance with the following performance based standards: **(Adopted 3/99)**
  - a. Any and all structures shall be setback a distance of 150 feet from existing rights-of-ways and 250 feet from any portion of the right-of-way for Portsmouth Avenue or State Route 101.
  - b. Any and all access ways, parking and other infra-structure of any kind related to the use in any way shall be set back 100 feet from existing rights-of-ways and 125 feet from Portsmouth Avenue and State Route 101 except at the point where access is granted.
  - c. Self Storage or Warehousing shall have opaque buffers in all directions that shall provide visual and otherwise protective vegetative buffer utilizing existing vegetation and landscaping to the maximum extent feasible, and where appropriate, fabricated materials and fences. Such buffers shall be at a minimum depth of 50', and provide, in all seasons, an opaque screening. However, the Planning Board may require additional buffering relative to distance or opacity.
  - d. No outdoor storage of any kind shall be permitted in association with these uses.
  - e. Structures used for self-storage or warehousing shall not occupy more than 10% of the lot.
6. Not permitted within 800 feet of Portsmouth Avenue. **(Adopted 3/98)**

**Additional Notes:**

All permitted uses are subject to all of the other provisions of this Ordinance. All special exceptions are subject to the provisions of Section XVI, the Board of Adjustment. Conditional use permits shall be granted in accordance with the following: **(Rev. 3/98)**

1. **Conditional Use Permits:** All developments designated as “C” in Table 3.6, Table of Uses shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings, and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. **(Rev. 3/99)**
2. These provisions shall not be construed as establishing any legal right to a given use.
3. **Standards for Approval:** All standards below must be met or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit:
  - a. The permit is in the public interest;
  - b. There will be no greater diminution of neighboring property values than would be created under any other use or development permitted in the underlying zone;
  - c. That there are no existing violations of the Stratham zoning ordinance on the subject property;
  - d. That the character of the area shall not be adversely affected. This determination, to be made by the Planning Board, shall be made by considering the following aspects of the surrounding area:
    - I. **Consistency of Architecture:** With the surrounding buildings and neighborhood, determined through analysis of the following:
      - i. Roof pitches;
      - ii. Siding types;
      - iii. Architectural styles of nearby residential structures;
      - iv. Proportional aspects of facades, building locations on lots, and openings.
    - II. **Transportation:** Determined through analysis of the following:
      - i. Access for safety vehicles onto the site, within the site, and to individual structures;
      - ii. Capacity of nearby and affected intersections, and transportation corridors;
      - iii. Cost for the town to maintain roadways;
      - iv. Layout, width, and construction of roadways on the site.
    - III. **Protection of Natural Resources:** Determined through analysis of the following:
      - i. Protection of environmentally sensitive areas, including but not limited to, wetlands, shoreland buffers, wildlife corridors, significant groundwater resources, etc;
      - ii. Maintenance of viewsheds and other visually appealing aspects of the site.
    - IV. **Protection of Cultural Resources:** Determined through analysis of the following:
      - i. Establishment of new and protecting existing trailways for travel;
      - ii. Protection of historic buildings or significant historical landscapes;
      - iii. Establishment, protection, and promotion for agricultural uses of the site.
  - e. That granting the permit will not result in undue municipal expense;

- f. That the proposed development will be constructed in a manner compatible with the spirit and intent of the Stratham Master Plan and Zoning Ordinance;
- g. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted. Mitigation of these impacts by the developer can be properly considered in granting of a conditional use permit;
- h. That the general welfare of the Town will be protected;
- i. Landscaped or other appropriate buffers of sufficient opacity and materials shall be required if deemed reasonably necessary for the welfare of neighboring properties or the Town.

**SECTION IV: DIMENSIONAL REQUIREMENTS****4.1 GENERAL REQUIREMENTS:**

The following general requirements shall be met:

- 4.1.1 No building or structure shall be erected, enlarged or moved nor shall any use be authorized or extended nor shall any existing lot be changed as to size except in accordance with the Table of Dimensional Requirements, Table 4.2.
- 4.1.2 A lot having frontage or an area less than required by Table 4.2 may be considered to be in compliance therewith provided that:
  - a. The lot had received final subdivision approval prior to the enactment of this Ordinance or was shown on a recorded plan or deed filed before the Planning Board that was granted jurisdiction to control the subdivision of land, and provided that,
  - b. Contiguous lots in common ownership shall be combined to create a lot or lots most nearly consistent with Section 4.2, and provided that,
  - c. Contiguous lots in common ownership shall not have been separated or transferred in ownership so as not to comply with the provisions of this Ordinance.
- 4.1.3 More than one building may be allowed on a lot in the General Commercial, Town Center, Industrial, Commercial/Light Industrial/Office (Rev. 3/98) and Professional Residential districts provided that there is a minimum distance of sixty (60) feet separating each of the buildings in the General Commercial, Commercial/Light Industrial/Office and Industrial zones and thirty (30) feet of separation between buildings in the Town Center and Professional Residential zones. (Adopted 3/96, Rev. 3/00)

**4.2 TABLE OF DIMENSIONAL REQUIREMENTS:**

The Table of Dimensional Requirements shall apply for all lots, uses of land, and developments within the various districts, unless modified by other sections of this ordinance.

**4.2 TABLE OF DIMENSIONAL REQUIREMENTS: (Rev 3/00)**

(See explanatory footnotes on next page)

**ZONING DISTRICT:**

	<b>DIMENSIONAL REQUIREMENT:</b>	<b>Residential/ Agricultural: (b)(h)</b>	<b>Manufactured Housing/Mobile Home: (i)</b>	<b>Professional/ Residential: (c)</b>	<b>Town Center: (c)</b>	<b>General Commercial: (c)(e)</b>	<b>Commercial/ Light Industrial Office:</b>	<b>Industrial: (c)</b>	<b>Retirement Planned Community: (k)</b>
<b>MINIMUM Lot Dimensions: (a)</b>	<b>AREA:</b>	2-acres (d)	1-acre (d)	1-acre (d)	1-acre (d)	1-acre (d)	1-acre	2-acres	5-acres
	<b>CONTINUOUS FRONTAGE:</b>	200' (d)	100' (d)	200' (d)	100' (d)	200' (d)	150'	150'	50'
	<b>DEPTH:</b>	150'	150'	150'	100'	100'	100'	200'	200'
<b>MINIMUM Yard Dimensions: (a)</b>	<b>FRONT:</b>	30' (e)	30' (e)	30' (e)(g)(1) 100' (g)(2)	30' (e)	60' (e)	30' (e)	30' (e)	40'
	<b>SIDE:</b>	20'	20'	20' (g)(1) 25' (g)(2)	25'	25'	25'	40'	40'
	<b>REAR:</b>	20'	20'	20' (g)(1) 25' (g)(2)	25'	25'	25'	50'	40'
	<b>MAXIMUM HEIGHT OF STRUCTURE:</b>	35'	35'	35'	35'	35'	35' (f)	35' (f)	45'
	<b>MAXIMUM % BUILDING COVER/LOT:</b>	20%	25%	30%	40%	40%	40%	40'	40%
	<b>MAXIMUM BUILDING FOOTPRINT: (Adopted 3/00)</b>	N/A	N/A	N/A	N/A	80,000 sq. feet	80,000 sq. feet	N/A	N/A
	<b>MINIMUM % OPEN SPACE/LOT:</b>	60%	50%	50%	50%	50%	40%	40%	40%
	<b>FRONT OPEN SPACE SETBACK:</b>	N/A	N/A	30' minimum 50' average	30' min. 50' avg.	35' min. 50' avg.	See: 4.3(j) explanatory notes	25' min. 50' avg.	40' min.
	<b>SIDE/REAR OPEN SPACE SETBACK:</b>	N/A	N/A	20' minimum 30' average	25' min. 40' avg.	25' min. 40' avg.	See: 4.3(j) explanatory notes	25' min.	40' min.

**4.3 EXPLANATORY NOTES:**

The following explanatory notes shall provide further definitions for the footnoted items in Table 4.2.

- (a) All measurements are in feet unless otherwise noted. The minimum lot size shall be increased depending on the soil classification as defined by the Natural Resources Conservation Service. (Rev. 3/98)
- (b) These dimensions shall not apply to Cluster Developments. See Section VIII for applicable dimensional requirements.
- (c) When the footnoted professional/residential, commercial, office, or industrial uses abut residential uses or a residential district, the minimum front and rear setbacks shall be 100 feet and the side setback shall be 50 feet.
- (d) For a duplex house on a single lot, the minimum lot size shall be 1.5 acres and have 175 feet of continuous frontage. In the R/A District a duplex house on a single lot shall have a minimum lot area of 3 acres and a minimum continuous frontage of 200 feet. (Rev. 3/00)
- (e) For lots that abut Route 33 or Route 108, the minimum setback shall be 100 feet, except in the Town Center District. In the Town Center District and for any land that lies south and west of Route 101, front setbacks on Route 33 or Route 108 shall be 60 feet. The above setbacks shall not apply to septic tanks and/or leaching fields. Septic tanks and/or leaching fields must be located at least 30 feet from the edge of a right-of-way, or comply to the standards set forth in Section 20.1.1 & 2 of this Ordinance; the more restrictive provision shall apply. In addition, for land that lies south and west of Route 101 that is also served by municipal sewer and water, the minimum rear and side open space setback shall be the same as the yard dimensions, the minimum open space shall be 15%, and the height of the buildings may also be increased in accordance with footnote f, below. (Rev. 3/91, 3/96, 3/99)
- (f) For the footnoted districts, an applicant may apply to the Board of Adjustment to exceed the height limit provided it is determined by the Board that the extra height will not create a safety hazard.
  - (1) West side of Route 108. (Rev. 3/96)
  - (2) East side of Route 108. Existing structures could be converted but not expanded unless they meet setback requirements. New or replacement structures would have to meet setbacks on page 26 & 27 (Section 4.2). (Rev. 3/96).
- (h) Porkchop lots are allowed under certain conditions. See Subdivision Regulations.
- (i) Except as modified by Section 9.5. (Rev. 3/89)
- (j) The Planning Board shall adopt regulations to administer the open space and buffer requirements for the CLIO zone where the zone abuts residential zones and uses. These buffers shall provide a visual and otherwise protective vegetative buffer utilizing existing vegetation and landscaping to the maximum extent feasible, and where appropriate, fabricated materials and fences. Such buffers shall be at a minimum depth of 100', and may provide in all seasons an opaque screening at the discretion of the Planning Board. However, the Planning Board may require a greater distance. The buffer may exist outside the CLIO district through ownership or easement and may contain appurtenant structures that are compatible with the maintenance of a vegetative cover (e.g. leach fields, drainage areas, etc.). (Adopted 3/98)
- (k) For a Retirement Planned Community, the minimum lot shall be 5 acres and height shall be measured with a maximum of three (3) stories above grade. Density, setbacks between structures, setbacks to interior lot lines, minimum lot size per unit, setbacks to wetlands, and parking shall be controlled by Section V: 5.6, Retirement Planned Community. (Adopted 3/99)

**SECTION V: SUPPLEMENTARY REGULATIONS****5.1 NON-CONFORMING STRUCTURES AND USES: (Rev. 00)****5.1.1 Reconstruction Of:**

Any non-conforming structure which is completely or substantially destroyed by casualty loss may be replaced with a similar structure which has the same building footprint dimensions and meets the setbacks of the previously existing structure. The structure may be rebuilt provided such construction is started within one year of the casualty loss and completed within two years of the casualty loss. The provisions of the Town of Stratham Building Code, as amended, shall apply to any reconstruction.

**5.1.2 Expansion of Non-Conforming Uses:**

Except as noted below, an expansion of a non-conforming use is prohibited except by variance by the Zoning Board of Adjustment.

A variance is not required if the expansion is a natural expansion which does not change the nature of the use, does not make the property proportionately less adequate, and does not have a substantially different impact on the neighborhood.

**5.1.3 Expansion of Non-Conforming Structures:**

Non-conforming structures may be expanded in accordance with the terms of a special exception issued by the Zoning Board of Adjustment, which must find the following factors to exist before issuing such a special exception:

- a. The proposed expansion must intrude no further into any setback area than does the existing structure;
- b. The expansion must have no further adverse impact on the view, light, and air of any abutter;
- c. The expansion must not cause property values to deteriorate;
- d. The expansion must not impede existing rights of access or egress;
- e. That portion of the proposed expansion, which will intrude into the setback must, in no event, exceed the footprint square footage of that portion of the structure which presently intrudes into the setback, regardless of the number of applications made over time under this subsection;
- f. In the event the non-conforming structure contains a commercial use, there must be no adverse impact on access, traffic, parking, lighting, or other safety or visibility features of the existing structure;



- g. A special exception under this subsection may be granted only as to expansions into the side, front, and rear setbacks, and is not available for expansions which violate height restrictions of this ordinance.

#### 5.1.4 Discontinuance Of:

In the event that a non-conforming use is voluntarily discontinued for a period of one year, such non-conforming use shall be deemed abandoned and shall not be able to resume without compliance with the Zoning Ordinance or, alternately, without a variance from the Zoning Board of Adjustment. Voluntary abandonment shall be evidenced by either of the following:

- a. Discontinuance of the occupancy or nonconforming use for twelve consecutive months with no ongoing attempts to sell or lease the property for its non-conforming use; or:
- b. Failure to resume the nonconforming use within eighteen months, even though there may be ongoing efforts to sell or lease the property for its non-conforming use.

#### 5.1.5 Continuance Of:

All non-conforming structures and uses which predate the adoption or amendment of this Ordinance may continue in their present use. These uses shall run with the land and may be transferred by sale or lease by present owner to future owners or lessees, subject to the other terms of this Ordinance, which limit such non-conforming uses.

All new uses, changes of uses, expansion of uses or resumption of uses previously discontinued shall not be permitted until the property owner or authorized lessee has first made application to the Town of Stratham Code Enforcement Officer for an administrative decision seeking a determination whether a permit is required for such new, change, expansion or resumption of the non-conforming use or non-conforming structure under the terms of this Ordinance. If a permit or other application is required, such use may not proceed until such application has been made and processed as required by Town Regulations and Ordinances.

## 5.2 CERTAIN PROHIBITIONS:

The following prohibitions shall be observed in the Town of Stratham:

- 5.2.1 Fire Ruins: No owner or occupant of land in any district shall permit fire or other ruins to be left on a site, but within six months shall remove such ruins and fill any excavation with solid fill to ground level, or shall repair, replace, or rebuild the structure within one year of the fire.

- 5.2.2 Nuisances: Any use that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the comfort, peace, enjoyment or health or safety of the community, or tending to its disturbance or annoyance, is prohibited.
- 5.2.3 **(Repealed 3/99)** See Section XX
- 5.2.4 Dumping or Disposal of Garbage and Other Refuse: No land in any district shall be used for a dumping place for garbage and refuse from either private or commercial or industrial sources except the public dump as provided by the Town and except with the approval in writing of the Public Health Officer.
- 5.2.5 Timber Cutting: No person shall cut timber, except as provided for in New Hampshire Statutes.
- 5.2.6 Junk Vehicles: Two or more junk, un-inspected, or inoperable automobiles or other vehicles originally designed for public or private transportation purposes or the parts to said vehicles shall not remain within any residential or open space/forestry districts unless such vehicle and/or its parts are enclosed within a conforming building. **(Rev. 3/98)**
- 5.2.7 Boats: A boat with a beam of greater than eight feet shall conform to the setbacks of the zone in which it is located.
- 5.2.8 Tractor-Trailers: No tractor-trailers used for storage purposes shall be permitted on-site for more than thirty (30) days during any calendar year. Tractor-trailers within the Industrial District shall be permitted on-site for no more than six (6) months. Sites under construction shall be exempt from this provision. All tractor-trailers shall comply with the setbacks as specified in Table 4.2. **(Rev. 3/89)**

### 5.3 JUNK YARDS:

Any junk yard or place for storage of unregistered vehicles or other scrap material shall be maintained in accordance with standards set and enforced by the New Hampshire Revised Statutes.

- 5.3.1 Screening: Any junk permitted to be maintained on any lot shall be effectively screened from view from any highway and from abutting premises by a solid wall or fence at least six (6) feet in height.
- 5.3.2 Period for Compliance: A period of six (6) months from the date of adoption of this Section shall be provided for junk existing on said date either to be removed or to be brought into compliance with the provisions hereof.

**5.4 ACCESSORY APARTMENTS: (Rev. 3/90)**

5.4.1 Purpose: The purpose of the accessory apartment provision is to provide a housing alternative for a family member(s) in a personal hardship situation, while maintaining neighborhood aesthetics and quality.

5.4.2 Objectives: The objectives of this Section are to:

- a. Provide a housing unit in a single-family neighborhood for a family member(s) (as defined by Section 2.1.22 of this Ordinance) in a personal hardship situation;
- b. Protect the single-family residential character of a neighborhood by ensuring that the accessory apartment is permitted only in an owner-occupied house and under such conditions as to protect the health, property values, safety, and welfare of the public.

5.4.3 Special Exception

One (1) accessory apartment within a detached single-family dwelling will be permitted by special exception. The Zoning Board of Adjustment will grant a special exception provided that all of the following conditions are met:

- a. The dwelling to which an accessory apartment is to be added must be owner-occupied;
- b. Said dwelling must have been owner-occupied by the current owner-occupant for the twenty-four (24) calendar months preceding the date of application;
- c. Only said owner, or owner's agent, may apply for an accessory apartment for a family member(s) in a personal hardship situation;
- d. The property and proposed use must conform to the dimensional requirements of Table 4.2;
- e. The single-family dwelling shall not be a mobile home, condominium, or located within a cluster development;
- f. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family dwelling. Any new entrance that may be required shall be located on the side or in the rear of the building;
- g. The size of the accessory apartment shall be between 400 square feet and 800 square feet, and shall not exceed 1/3 of the living area of the existing dwelling;
- h. In no case shall there be more than two (2) people residing within an accessory apartment;
- i. Off-street paved or gravel parking shall be provided for four (4) vehicles total for the lot. The appearance of the parking design shall be that of a single-family dwelling;

- j. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling;
- k. Prior to granting a special exception by the ZBA, the owner shall provide, as part of the ZBA case file, the following:
  - i. Evidence to the Town Septic System Inspector that septic facilities are adequate for both units according to the standards of Stratham and the N.H. Water Supply and Pollution Control Division. If deemed necessary by said Inspector, such evidence shall be in the form of certification by a State of NH licensed septic system designer. Also the owner shall provide evidence that there is adequate potable water according to the standards of the State of New Hampshire. The Septic System Inspector then shall indicate his approval in writing to the ZBA;
  - ii. A floor plan of one-quarter inch (1/4") to the foot scale showing the proposed changes to the building;
  - iii. A sketch plan (drawn to scale) of the lot, with existing and proposed structures and parking.
- l. The accessory apartment shall be subject to the standards and conditions for a special exception as set forth in Article 17.8.2 of this Ordinance.

#### 5.4.4 Regulations:

- a. Once any renovation or construction is complete, or the owner is ready to have a unit occupied, a request shall be made to the Building Inspector for an occupancy permit. The owner shall provide the Building Inspector with a copy of recorded deed restrictions requiring that, upon sale of the house, the new owner must re-apply for a special exception in order to continue using the accessory apartment, pursuant to Section 5.4.4.b. below. There shall be no occupancy of the accessory unit until the Building Inspector has issued said occupancy permit.
- b. If a home that had a special exception permit for an accessory apartment is sold, then said permit shall cease. If the purchaser of said home wants to continue using the apartment, then he/she must reapply for a permit within six (6) months of purchase, in order to be exempt from Section 5.4.3.b. The new applicant shall demonstrate that all conditions set forth in Section 5.4.3, except 5.4.3.b. have been met. The new applicant shall not be exempt from Section 5.4.3.b. if re-application does not occur within six (6) months of purchase.
- c. If the personal hardship situation (under which the special exception was granted) ceases, then the special exception permit and use of the accessory apartment shall cease.

**5.5     OUTSIDE STORAGE: (Rev. 3/96)**

Storage of materials used in conjunction with a permitted use within any district shall be permitted. However, all goods and materials must be stored in accordance with the minimum yard dimensions specified in Table 4.2, Table of Dimensional Requirements.

**5.6     RETIREMENT PLANNED COMMUNITY: (Adopted 3/99)**

Retirement Planned Community uses shall adhere to all provisions of the Stratham Zoning Ordinance unless preempted by the provisions below.

- 5.6.1     Density: No minimum lot size shall be required per individual unit.
- a. For a Retirement Planned Community that is served by on-site subsurface disposal systems, the number of elderly housing units per acre shall be based on the number of bedrooms allowed under NH Department of Environmental Services Septic System Design Rules as shall be applicable on the date of subdivision or site plan application to the Planning Board, divided by the number of bedrooms per unit.
  - b. For a Retirement Planned Community that is served by public sewer and public water the number of elderly housing units shall be a maximum of 8 per acre.
  - c. The maximum number of units per building in the Retirement Planned Community shall be 24.
- 5.6.2     Setback to Wetlands: Within a Retirement Planned Community, the setback to wetlands shall be 50 feet.
- 5.6.3     Parking: Two (2) parking spaces per unit shall be provided on-site.
- 5.6.4     Setbacks: To interior subdivision lot lines for structures shall be 30 feet.
- 5.6.5     Setbacks: Between on-site structures shall be 25 feet.
- 5.6.6     Regulations: The Planning Board as part of site plan review may modify setbacks to lot lines, interior on-site structures, and parking requirements upon appropriate findings by the Planning Board.

## **SECTION VI: PARKING REQUIREMENTS**

The entire text of Section VI, Parking Requirements, was deleted at the March 10<sup>th</sup>, 2001 Town Meeting (Article 3; see Appendix A). Parking Requirements are addressed in the Town of Stratham Site Plan Regulations.

## SECTION VII: SIGNS

### 7.1 PURPOSES:

The intent of this Section is to allow the erection of signs, for the purposes of providing information and advertising, in an orderly, effective, and safe manner. Restrictions on type, location and size of signs protect the public from hazardous and distracting displays and create an attractive environment which is conducive to business, industry, and tourism.

### 7.2 GENERAL REGULATIONS:

7.2.1 Sign Table: Table 7.3 lists the types, sizes, and locations of permitted signs according to the use of property and zoning districts. Any sign not specifically listed shall not be permitted. The following exceptions are permitted:

- a. Governmental Signs: Signs erected by the municipal, State, or federal government, which are required for the public safety and welfare shall be allowed.
- b. Service/Civic Association Signs: Service and civic associations, defined as organizations established by local citizens and which have for non-profit tax status, may apply to the Board of Adjustment for a special exception to erect signs in the municipality providing that the following conditions are met: (1) an individual sign is no larger than four (4) square feet, (2) the organization has written permission for placement of the sign from the landowner, and (3) the sign will not cause a safety hazard or have a visual effect on the surroundings.
- c. Directional Signs: In any zone signs not exceeding two (2) square feet per sign in area to point direction to residences, businesses, other allowed uses or meeting places or for directing traffic into or out of a site are permitted.
- d. Real estate signs and contractor's signs,: As defined in Section II, do not need to obtain a permit as long as they comply with the provisions outlined in Section 7.3. **(Rev. 3/93)**

7.2.2 Sign permits: No sign shall be erected or placed without a permit issued by the Building Inspector in accordance with the provisions of this Ordinance or upon a decision by the Board of Adjustment.

### 7.2.3 Prohibited Signs:

The following signs are prohibited:

- a. Signs, any part of which moves or flashes or on which the lights appear to travel or are animated;
- b. Signs, which by reason of location, size, color, or design interfere with public traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking;
- c. Signs which are located off of the property that they are advertising;
- d. Signs located on the roof of any structures;
- e. Internally illuminated signs may be permitted only in the General Commercial, Commercial/Light Industry/Office and Industrial zoning districts for certain permitted uses. (Rev. 3/96; Rev. 3/98)

7.2.4 Temporary Mobile and/or Portable Signs: New businesses may use a temporary mobile sign (or trailer mounted sign) while awaiting the arrival of a permanent sign. Such signs shall be allowed only until the permanent sign(s) is installed or for thirty (30) days, whichever is shorter. A permit shall be secured from the Building Inspector for the placement of such signs.

7.2.5 Maintenance and Obsolescence: All signs and sign structures shall be properly maintained and kept in a neat and proper state of maintenance and appearance. All signs of any type and located within any district which are found by the Building Inspector to be in a state of disrepair or are considered dangerous, shall be repaired or removed on order of the Building Inspector and upon failure to comply with this order within the time specified within the order, the Building Inspector is hereby authorized to cause removal of this sign and any expense resultant thereto shall be borne by the owner/lessee.

7.2.6 Existing Nonconforming Signs: Shall not be enlarged, expanded, or brought closer to the front lot line than what is allowed under Section 7.3. Signs which are replaced (other than the message portion of the signs) shall comply with the standards of this section. (Rev. 3/94)

7.2.7 Computation of Area. The area of a sign (which is also the sign area of a wall sign or other sign) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display together with any material, color, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop, background or structure against which it is placed. Areas of supporting framework shall be excluded from this calculation up to the amount of 25% of the total area as calculated above. All supporting framework, bracing, or decoration in excess of the 25% limit shall be deemed part of computation of the maximum aggregate area. (Adopted 3/97).



**TABLE 7.3: PERMITTED SIGNS: (Rev. 3/97)**

		<b>PROJECTING SIGNS:</b>		<b>FREE STANDING:</b>		<b>ILLUMINATION:</b>	
<b>MAF &amp; Residential/ Agricultural Districts:</b>	<b>Maximum Aggregate Area (A)</b>	<b>Height Min/Max</b>	<b>Minimum Feet to Curb</b>	<b>Maximum Height</b>	<b>Min. Feet to Lot Line</b>	<b>External Illum.</b>	<b>Internal Illum.</b>
<b>Dwellings; Home Occupations, Rest-Convalescent-Nursing Homes, Private Nursery Schools, Kindergartens, Child Care Centers, and Bed &amp; Breakfast establishments:</b>	4 sq. ft.	8'-12'	N/A	5'	20'	No	No
<b>Public, Educational, Historical, Institutional uses:</b> (also in Commercial and Industrial Districts)	4 sq. ft.	8'-12'	N/A	8'	20'	Yes	No
<b>Temporary Real Estate or Contractors' Signs:</b> (also in Commercial and Industrial Districts)	16 sq. ft.	N/A	N/A	8'	20'	No	No
<b>Roadside Stands, Greenhouses, and Nurseries:</b>	12 sq. ft.	N/A	N/A	10'	15'	No	No
<b>Cluster Development Project Identification Signs:</b>	16 sq. ft.	N/A	N/A	10'	20'	Yes	No

Explanatory Notes:

- A. With the exception of Note B, the maximum aggregate area is the sum of attached, projecting, and/or freestanding signs. In no case can all of the sign areas exceed the maximum aggregate area.
- B. One square foot of a sign area is allowed for each linear foot of principal store frontage of each individual business. In addition, one free standing sign of up to 100 square feet is allowed to identify the shopping center

**TABLE 7.3: PERMITTED SIGNS:** (continued)

Professional/ Residential District:	Maximum Aggregate Area (A)	PROJECTING SIGNS:		FREE STANDING:		ILLUMINATION:	
		Height Min/Max	Minimum Feet to Curb	Maximum Height	Min. Feet to Lot Line	External Illum.	Internal Illum.
<b>Businesses, Professional Offices, and Other Office Uses:</b> (not in shopping centers)	(B)	N/A	N/A	10'	20'	No	No
<b>Shopping Centers and similar Multiple-Use Developments:</b> (comprised of four or more distinct operations under different proprietorship which make use of a common driveway and/or parking area)	(B)	20'	100'	30'	35'	Yes	Yes
<b>Industrial and Office Park Identification Signs:</b> ( Not for individual buildings or uses)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Industrial and Office Buildings:</b>	30 sq. ft.	8'-16'	25'	16'	35'	Yes	Yes
<b>Retail and Service Operations:</b> (permitted as a special exception in the Industrial District only)	2 sq. ft.	8'	25'	10'	20'	No	No

Explanatory Notes:

- A. With the exception of Note B, the maximum aggregate area is the sum of attached, projecting, and/or freestanding signs. In no case can all of the sign areas exceed the maximum aggregate area.
- B. One square foot of a sign area is allowed for each linear foot of principal store frontage of each individual business. In addition, one free standing sign of up to 100 square feet is allowed to identify the shopping center.

**TABLE 7.3: PERMITTED SIGNS** (continued)

		<b>PROJECTING SIGNS:</b>		<b>FREE STANDING:</b>		<b>ILLUMINATION:</b>	
<b>General Commercial District:</b>	<b>Maximum Aggregate Area (A)</b>	<b>Height Min/Max</b>	<b>Minimum Feet to Curb</b>	<b>Maximum Height</b>	<b>Min. Feet to Lot Line</b>	<b>External Illum.</b>	<b>Internal Illum.</b>
<b>Businesses, Professional Offices, and Other Office Uses:</b> (not in shopping centers)	(B)	N/A	N/A	15'	20'	Yes	Yes
<b>Shopping Centers and similar Multiple-Use Developments:</b> (comprised of four or more distinct operations under different proprietorship which make use of a common driveway and/or parking area)	(B)	20'	100'	30'	35'	Yes	Yes
<b>Industrial and Office Park Identification Signs:</b> ( Not for individual buildings or uses)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Industrial and Office Buildings:</b>	30 sq. ft.	8'-16'	25'	16'	35'	Yes	Yes
<b>Retail and Service Operations:</b> (permitted as a special exception in the Industrial District only)	2 sq. ft.	8'	25'	10'	20'	No	No

Explanatory Notes

- A. With the exception of Note B, the maximum aggregate area is the sum of attached, projecting, and/or freestanding signs. In no case can all of the sign areas exceed the maximum aggregate area.
- B. One square foot of a sign area is allowed for each linear foot of principal store frontage of each individual business. In addition, one free standing sign of up to 100 square feet is allowed to identify the shopping center.

**TABLE 7.3: PERMITTED SIGNS:** (continued)

<b>Industrial District:</b>	<b>Maximum Aggregate Area (A)</b>	<b>PROJECTING SIGNS:</b>		<b>FREE STANDING:</b>		<b>ILLUMINATION:</b>	
		<b>Height Min/Max</b>	<b>Minimum Feet to Curb</b>	<b>Maximum Height</b>	<b>Min. Feet to Lot Line</b>	<b>External Illum.</b>	<b>Internal Illum.</b>
<b>Businesses, Professional Offices, and Other Office Uses:</b> (not in shopping centers)	(B)	N/A	N/A	10'	20'	No	No
<b>Shopping Centers and similar Multiple-Use Developments:</b> (comprised of four or more distinct operations under different proprietorship which make use of a common driveway and/or parking area)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Industrial and Office Park Identification Signs:</b> ( Not for individual buildings or uses)	48 sq. ft.	N/A	N/A	10'	20'	Yes	No
<b>Industrial and Office Buildings:</b>	30 sq. ft.	8'-16'	25'	16'	35'	Yes	Yes
<b>Retail and Service Operations:</b> (permitted as a special exception in the Industrial District only)	2 sq. ft.	8'	25'	10'	20'	No	No

Explanatory Notes:

- A. With the exception of Note B, the maximum aggregate area is the sum of attached, projecting, and/or freestanding signs. In no case can all of the sign areas exceed the maximum aggregate area.
- B. One square foot of a sign area is allowed for each linear foot of principal store frontage of each individual business. In addition, one free standing sign of up to 100 square feet is allowed to identify the shopping center

**TABLE 7.3: PERMITTED SIGNS:** (continued)

Commercial /Light Industry/Office District: (CLIO)	Maximum Aggregate Area (A)	PROJECTING SIGNS:		FREE STANDING:		ILLUMINATION:	
		Height Min/Max	Minimum Feet to Curb	Maximum Height	Min. Feet to Lot Line	External Illum.	Internal Illum.
<b>Businesses, Professional Offices, and Other Office Uses:</b> (not in shopping centers)	(B)	N/A	N/A	10'	20'	Yes	No
<b>Shopping Centers and similar Multiple-Use Developments:</b> (comprised of four or more distinct operations under different proprietorship which make use of a common driveway and/or parking area)	(B)	20'	100'	30'	35'	Yes	Yes
<b>Industrial and Office Park Identification Signs:</b> ( Not for individual buildings or uses)	48 sq. ft.	N/A	N/A	10'	20'	Yes	No
<b>Industrial and Office Buildings:</b>	30 sq. ft.	8'-16'	25'	16'	35'	Yes	No

Explanatory Notes:

- A. With the exception of Note B, the maximum aggregate area is the sum of attached, projecting, and/or freestanding signs. In no case can all of the sign areas exceed the maximum aggregate area.
- B. One square foot of a sign area is allowed for each linear foot of principal store frontage of each individual business. In addition, one free standing sign of up to 100 square feet is allowed to identify the shopping center

**TABLE 7.3: PERMITTED SIGNS:** (continued)

		<b>PROJECTING SIGNS:</b>		<b>FREE STANDING:</b>		<b>ILLUMINATION:</b>	
<b>Town Center District:</b>	<b>Maximum Aggregate Area (A)</b>	<b>Height Min/Max</b>	<b>Minimum Feet to Curb</b>	<b>Maximum Height</b>	<b>Min. Feet to Lot Line</b>	<b>External Illum.</b>	<b>Internal Illum.</b>
<b>Hotels and Motels:</b>	12 sq. ft.	8'-12'	N/A	10'	20'	Yes	No
<b>Businesses, Professional Offices, and Other Office Uses:</b> (not in shopping centers)	(B)	8'-12'	N/A	10'	20'	Yes	No
<b>Shopping Centers and similar Multiple-Use Developments:</b> (comprised of four or more distinct operations under different proprietorship which make use of a common driveway and/or parking area)	(B)	20'	60'	25'	35'	Yes	No
<b>All Other Uses Permitted in the Town Center Zoning District:</b>	12'	8'-12'	N/A	10'	20'	Yes	No

Explanatory Notes:

- A. With the exception of Note B, the maximum aggregate area is the sum of attached, projecting, and/or freestanding signs. In no case can all of the sign areas exceed the maximum aggregate area.
- B. One square foot of a sign area is allowed for each linear foot of principal store frontage of each individual business. In addition, one free standing sign of up to 100 square feet is allowed to identify the shopping center.

## **SECTION VIII: RESIDENTIAL OPEN SPACE CLUSTER DEVELOPMENT**

### **BY CONDITIONAL-USE PERMIT**

(Rev 3/99)

#### **8.1 RESIDENTIAL OPEN SPACE - CLUSTER DEVELOPMENT:**

Pursuant to RSA 674:21, the Planning Board is hereby authorized to grant a Conditional Use Permit to allow for an Open Space - Cluster Development in accordance with the restrictions and requirements of this section. The Planning Board is further authorized to adopt amendments to the Subdivision Regulations in order to further administer the requirements of this ordinance.

8.1.1 Purpose: This section is to provide a flexible method of residential development that is consistent with principles of sound planning and wise land use that are not specifically permitted in the current zoning ordinance. All developments seeking a conditional use permit shall be administered by the Planning Board to insure that Open Space - Cluster development opportunities do not adversely impact neighboring properties, or the citizens and Town of Stratham. The Planning Board shall consider the following purposes and balance them accordingly during review of individual applications.

- a. Maintain and Preserve rural character of the Town of Stratham by allowing an alternative residential development option which preserves large areas of open space, provides for visual buffers from existing roads and residential development, and permits farming opportunities on parcels of open space.
- b. Preserve large, contiguous parcels of open space throughout the town and particularly as found in the Stratham Master Plan designated and referred to as the Stratham 'S' on Map FLU-2.
- c. Provide for a diversity of housing types, opportunities, and styles.
- d. Encourage flexible road design that will contribute to and enhance a rural atmosphere and maintain minimal safety design.
- e. To provide for connected corridors of open land throughout town for preservation of habitat, environmental resources, and public enjoyment.
- f. As part of an alternative for residential development, to require the clustering of homes in a manner that includes proximity in physical location while minimizing confusion over issues of property ownership.

8.1.2 Conditional Use Permits: All Open Space - Cluster developments shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings, and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or

submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

8.1.3 Application Procedure: Applications for conditional use permits for an Open Space - Cluster development shall be made in accordance with the procedures set forth in the relevant sections of the Subdivision Regulations of the Stratham Planning Board.

8.1.4 Approval of Applications: Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit shall be issued only if an Open Space - Cluster development complies with all of the requirements of this section. The Planning Board may condition its approval on reasonable conditions necessary to accomplish the objectives of this section or of the Stratham Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law, including but not limited to; a reasonable reduction in allowed density, a reasonable increase in required frontage, setbacks, or any other requirement if necessary to accomplish said objectives. The conditional use permit is meant to provide flexibility, minimize adverse impacts, and allow the Board to participate jointly with the applicant to prepare a development that is consistent with this ordinance, regulations, and the Master Plan for the Town of Stratham.

8.1.5 General: The Open Space - Cluster development provisions of this ordinance provide applicants with an alternative development approach intended to promote flexibility and innovation in land planning. Within this context, the ordinances that are established are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations, and the Open Space - Cluster development use allowed on any particular tract will be a function of innovative land planning and subdivision design interacting with the special characteristics and limitations of the site.

The following definitions specifically apply to this Section of the Zoning Ordinance:

- a. Common Area: Any parcel or area of land and/or area of water set aside as a result of a cluster plan. The common area is designed for the benefit and enjoyment of the residents of a cluster development. These areas may contain accessory structures and improvements necessary and appropriate for the educational, recreational, cultural, social or other noncommercial/nonresidential / non-industrial uses, plus any utility services utilized by the owners of the common area.



- b. Conservation Land: Land given to a public body dedicated to conservation of forests, park land, etc., or to a private conservation trust, with the intent of preserving in its original ecological condition, safeguarding water supplies, or diminishing flood danger.
  - c. Mandatory Home Association: A private non-profit corporation, association, or other non-profit legal entity established by the developer for the benefit and enjoyment of the residents of the Cluster Development. Membership in said association shall be mandatory for property owners and made a required covenant in any deed issued or passed. It shall provide voting and use rights in the common area when applicable and may charge dues to cover expenses, which may include tax liabilities of the common area, recreational or utility facilities. Articles of Association or Incorporation must be acceptable to the Planning Board and by the Town Counsel and any other municipal, county, state agency, body, commission or department required by law to approve of the same.
  - d. Open Space Easement: Land whose development rights have been legally restricted, either by deed or by public purchase of those rights. The easement may be so worded as to permit or restrict public access, to allow or disallow recreational development, and similar provisions. Easements are tied to the title of the land, regardless of its subsequent ownership.
  - e. Public Open Land: Land purchased by or given to the Town of Stratham for parks, playgrounds, or an undeveloped open space, generally with the intention of making it accessible for public use.
- 8.1.6 Strict Adherence: To these provisions shall not be construed as establishing a legal right to a conditional use permit for a cluster development. Those who wish to pursue their “development rights” to a certain use or development of land should consider developing their land with the permitted, conventional subdivision approaches, or through the variance procedure as provided for by New Hampshire law.
- 8.1.7 Lot Size and Frontage: The minimum lot size for an Open Space - Cluster development is 20 acres. The minimum frontage for the development shall be a contiguous 100 feet and of sufficient length to provide safe access for a right-of-way of at least 60 feet. At least one access shall be within the minimum frontage. The minimum frontage and access shall be within the Town of Stratham. If, however, the subject parcel has only 50 feet of frontage and was legally created prior to the date of adoption of this ordinance under ordinances and regulations that required at least a 50 feet minimum right-of-way, 50 feet shall be the minimum required frontage for such pre-existing lots. Frontage lands on roads existing at the time of application shall be preserved as buffers to the maximum extent possible in addition to all required setbacks. After the passage of this ordinance, any parcel that subdivides more than 50% of the frontage away from the parent parcel shall not be eligible for an Open Space - Cluster

development for a period of 4 years from the date of the subdivision approval. Merging the required parcels with the parent parcel to achieve the 50% original required frontage shall nullify this restriction.

8.1.8 Density: Maximum density for an Open Space - Cluster shall be determined by use of a yield plan. The purpose of a yield plan is to show the density that is reasonably achievable under a conventional subdivision following the requirements of the zoning ordinance and subdivision regulations. The Planning Board shall adopt regulations that provide for the generation of a yield plan in accordance with this section.

8.1.9 Density Bonus: (Rev. 03/04) The minimum density bonus, regardless of other frontage or innovative protection bonuses achieved, shall be one lot. The Planning Board may award a development an additional number of lots or units as a density bonus, if the required criteria as performance standards are met. Additional density allowances are based on the number of lots or units achievable under the yield plan baseline. The allowances are cumulative and may be allowed based on the following performance standards:

- a. If required criteria as set forth in the Stratham Subdivision Regulations for preservation of unique land and environmental features and/or facilities are met, the Stratham Planning Board may award the development an additional density bonus of up to 30%.
- b. Innovative layout and design of the project to encourage a village or community type environment with such amenities as village greens and parks, community viewsheds and/or integration into existing protected farm activities or existing recreational opportunities, the Stratham Planning Board may award the development additional density bonus of up to 15%.
- c. For the development of new recreational facilities such as parks, playgrounds, trails, and/or community centers, the board may grant an additional density bonus of up to 5%. If the improvements are made available to the general public, this bonus may be increased to a maximum of 10%.
- d. A density bonus of up to 2.5 lots may be awarded for the preservation of each potential frontage lot as open space.
- e. To encourage the development of diverse and affordable housing, the following bonuses for elderly and workforce affordable housing may be granted:
  1. If the project is developed as an Elderly Housing Development and no less than 20% of the units are provided as elderly affordable as defined in these regulations, a density bonus of 10% shall be awarded. If 50% or more of the units are offered as affordable, a 25% density bonus shall be granted. In addition multi-family units as defined under section 8.4.1-A:2, may be permitted to be increased up to a unit count of 6 per building or structure.

- i. Any elderly housing developed under this section must be established and maintained in compliance with the Fair Housing Act, as amended, 42 U.S.C. Sec. 3601 et seq. and NH Human Rights Commission Regulations Hum 302.02 62 or Over Housing, 302.03 55 or Over Housing as may be amended.
  - ii. Housing for adults aged 55 and older shall at a minimum shall provide that at least 80% of the units shall be occupied by at least one person 55 years of age or older per unit.
2. If under NH RSA 674:21-k Innovative land Use Controls, Inclusionary Zoning, the project provides for at least 20% of the units as workforce affordable, the board shall grant a density bonus of 10%. In addition multi-family units as defined under section 8.4.1-A:2, may be permitted to be increased up to a unit count of 6 per building or structure.
3. The Town Planner shall no less than annually report the Area Median Income as determined by the U.S. Department of Housing and Urban Development, Comparison of Area Rent Limits and Area Income Limits, for the Portsmouth – Rochester PMSA, to the Planning Board for the purposes of this section.

In order to implement this section, the following additional conditions and definitions shall be used:

4. Workforce Affordable
    - i. Rental Housing – Housing affordable to households with incomes up to 80% of the Area Median Income.
    - ii. Ownership Housing – Housing affordable to households with incomes up to 120% of the Area Median Income.
  5. Elderly Affordable
    - i. Rental Housing – Housing affordable to households with incomes up to 50% of the Area Median Income.
    - ii. Ownership Housing – Housing affordable to households with incomes up to 90% of the Area Median Income.
  6. Income limits shall be determined through the HUD/New Hampshire Housing Finance Authority Comparison of Area Rent Limits and Area Income Limits, for the Portsmouth – Rochester PMSA.
- f. Every development seeking such bonuses shall provide the planning board with easements, covenants, or deed restrictions, which shall provide for the perpetual continuation of the performance standards, which are used in the granting of any bonus. Said easements, covenants, or deed restrictions shall be

reviewed by qualified legal counsel on behalf of the town (at the developers expense) and approved by the planning board prior to the issuance of any final approval.

- g. Where a final number is greater than .5, the density number may be rounded up to the next whole number.
- h. In no event shall the total density bonus awarded exceed the soil-based carrying capacity for the entire parcel or 80% of the yield plan baseline, whichever is less. The Planning Board may adopt additional regulations that provide for density bonuses in accordance with this section.

8.1.10 Standards for Approval: All standards below must be met or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

- a. The permit is in compliance with this ordinance and is in the public interest;
- b. There will be no greater diminution of neighboring property values than would be created under any other use or development permitted in the underlying zone;
- c. That there are no existing violations of the Stratham zoning ordinance on the subject property;
- d. That the character of the area shall not be adversely affected. This determination, to be made by the Planning Board, shall be made by considering the following aspects of the surrounding area:

I. Consistency of Architecture: Except for single-family detached development, determined through analysis of the following:

- i. Roof pitches;
- ii. Siding types;
- iii. Architectural styles of residential structures;
- iv. Proportional aspects of facades, building locations on lots;

II. Transportation: Determined through analysis of the following:

- i. Access for safety vehicles onto the site, within the site, and to individual houses;
- ii. Capacity of nearby and affected intersections, and transportation corridors;
- iii. Cost for municipality to maintain roadways;
- iv. Layout, width, and construction of roadways on the site.

III. Protection of Natural Resources: Determined through analysis of the following:

- i. Protection of environmentally sensitive areas, including but not limited to, wetlands, shore land buffers, wildlife corridors, significant groundwater resources, etc;
- ii. Maintenance of viewsheds and other visually appealing aspects of the site;

IV. Protection of Cultural Resources: Determined through analysis of the following:

- i. Establishment of new and protecting existing trailways for travel;
  - ii. Protection of historic buildings or significant historical landscapes;
  - iii. Establishment, protection, and promotion for agricultural uses of the site.
- e. That granting the permit will not result in undue municipal expense;
- f. That the proposed development will be constructed in a manner compatible with the spirit and intent of the Stratham Master Plan and Zoning Ordinance;
- g. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted. Mitigation of these impacts by the developer can be properly considered in granting of a conditional use permit;
- h. That the general welfare of the Town will be protected;
- i. Landscaping or other appropriate buffers of sufficient opacity and materials shall be required if deemed reasonably necessary for the welfare of neighboring properties or the Town.

**8.2 OTHER REGULATIONS APPLICABLE:**

The Planning Board shall adopt sections of the Subdivision Regulations not pre-empted by this ordinance which shall apply to the Open Space - Cluster Development, including the right to waive such regulations. Where not specifically pre-empted by the provisions of this ordinance the requirement that is more restrictive shall apply. The Planning Board shall determine if pre-emption is intended by the provisions of this ordinance, and/or what requirement that is to apply, is more restrictive.

**8.3 MINIMUM OPEN SPACE REQUIREMENTS:** In addition to the requirements of this section, the Planning Board shall adopt regulations that prescribe additional criteria for Open Space parcels.

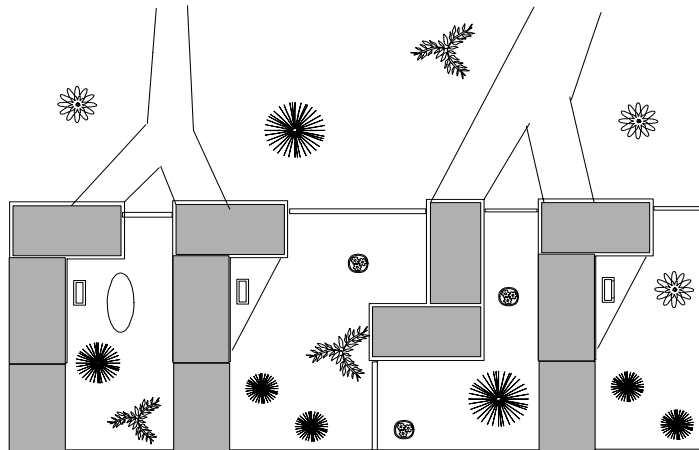
- 8.3.1 The parcel must contain a minimum of 35% of the total land in the parcel dedicated as open space.
- 8.3.2 Such land shall be preserved in perpetuity through deed restriction or conservation easement, and designated on the approved and recorded plat. Such restriction shall be approved by the Planning Board and Town Counsel.
- 8.3.3 The minimum required open space is land unbuilt upon, which must be permanently kept in that condition, and cannot be subjected to current use taxation or discretionary easements. However, actively operated farmland, classified as "prime" or "unique" by the Rockingham County Conservation District will be entitled to current use taxation or discretionary easements.
- 8.3.4 The open space and/or common area within a cluster development shall be owned by and bound by one or more of the following:
  - a. Mandatory Homeowners Association: Which may use it for common recreational facilities or may designate it as Open Space, or may grant a public body an Open Space Easement.
  - b. A Public Body: Which shall use it as Conservation Land or Public Open Land.
  - c. Such Designation: Must be made prior to approval of the subdivision application by the Planning Board; such lands shall be held in such type of legal entity as the Planning Board deems appropriate.

## 8.4 GENERAL REQUIREMENTS:

### 8.4.1. Uses:

Only residential uses shall be permitted in the Cluster-Open Space Developments.

- a. Single-family Detached Homes: Are permitted.
- b. Multi-family Units: Shall be permitted up to a unit count of 4 per building or structure. These are units that are structural joined and share walls with no yard between units.
- c. Joined-Array Units: Single-family units that are attached by and share a common yard and/or fence as part of a tightly-constructed joined-array, not to exceed four joined units, shall be considered single family units for setbacks to other arrays or detached units but shall not require setbacks from each other provided that yard space at least 20 feet wide is available for individual use between units. In no case shall structures be less than 10 feet apart (example below).



#### 8.4.2 Setbacks and Other Dimensions:

- a. The following frontage requirements shall apply:
  - i. Each single-family lot or unit shall have 50' of frontage on interior roadways.
  - ii. Joined-Array single family units, as described in 8.4.1.a.3 shall have 125' of frontage.
  - ii. Duplex and Multi-family units, sharing a common wall shall have 75' of frontage.
- b. All developments shall contain some form of lot delineation or lines that designate a reasonable amount of land attributable to each particular structure.
- c. The following setbacks shall apply to all residential structures within the development:
  - i. Setbacks from exterior property lines of the entire parcel shall be 25' for single-family detached units, with an additional 15' per unit for multi-unit structures (e.g. 4 unit attached = 85');
  - ii. 30' setback from the edge of pavement for roadways within, and part of, the development;
  - iii. 40' structural separation for all single-family unit structures within the development, subject however to 8.4.1.a.ii
  - iv. 50' structural setback for multi-family units from all other structures;
  - v. 10' structural setback from all lot lines.

8.4.3. Utilities: All utilities serving the development shall be underground. The Planning Board may waive the requirement for underground utilities along lengthy entrance roads that are visually separated from the clustered housing units. The Planning Board may not waive this requirement within the network of the development.

#### 8.5 EXPIRATION:

Any Conditional Use Permit shall expire if active and substantial development or building has not begun on the site by the owner or the owner's successor in interest in accordance with the approved plat within 12 months after the date of approval. As part of its approval of a plat or plan, the Planning Board may, with due regard to the scope and details of a particular project, specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling this paragraph. In such cases, a new application for a Conditional Use Permit must be completed.

#### 8.6 CONDITIONS:

The Planning Board may impose higher standards than allowed by this Section when they determine that because of special site and land conditions, an adverse impact would be created by allowing development to be built to the standards delineated in this Section.



## SECTION IX: MOBILE HOMES

### 9.1 AUTHORITY:

This Section is enacted in accordance with the provisions of RSA 674:32.

### 9.2 PURPOSES:

The purposes of this Section are to allow for the placement of mobile homes within specific areas of the community and to provide for standards therefore.

### 9.3 LOCATIONS:

Manufactured housing as defined in Section 2.1.32 is allowed in all residential districts of Stratham. Mobile homes as defined in Section 2.1.33 are allowed in the Manufactured Housing/Mobile Home district only.

### 9.4 LIMITATIONS:

A mobile home lawfully existing on the effective date of this Section on land outside of the Manufactured Housing/Mobile Home district, or a replacement thereof if such mobile home is destroyed by fire or casualty and its replacement is located on the land within 180 days after such fire or casualty, may be maintained as a non-conforming use, provided that when such use shall have been discontinued by the removal of such mobile home or its replacement from the land, the use of such land shall thereafter conform to the provisions of this Ordinance. An unoccupied travel trailer registered for use on the highways of this State may be parked on land owned by the owner of the travel trailer, provided that the location or condition of such travel trailer conforms to legal setbacks of the zone.

### 9.5 MOBILE HOME PARKS:

Mobile home parks will be allowed providing the following requirements are met:

- 9.5.1 Approval: No mobile home park shall be established or operated without approval from the Planning Board of a plan which clearly defines the area of the proposed park, as well as all mobile home sites, all utilities, and such other requirements as shall be required by the Subdivision Regulations of the Town of Stratham as may be adopted from time to time.
- 9.5.2 Size: Mobile home parks shall consist of a minimum of ten (10) acres and two (2) lots and are permitted in the Manufactured Housing/Mobile Home District provided that all requirements in this Section are met.
- 9.5.3 Lot Size: Each lot must contain not less than 30,000 square feet and shall have a depth of at least 150 feet and a frontage of at least 100 feet on a

public or private street, if an approved community water or sewer system is installed as part of the park development.

- 9.5.4 Placement: No lot shall contain more than one mobile home. No mobile home shall be placed closer than 100 feet to an existing residence or state or town road or within thirty (30) feet of any other boundaries of the park.
- 9.5.5 Marking: Each lot shall be clearly marked.
- 9.5.6 Setbacks: Front yard setbacks shall be at least 30 feet. Rear yard setbacks shall be at least 20 feet. Side yard setbacks shall be at least 20 feet. The setback areas shall not be used for parking areas for any types of vehicles.
- 9.5.7 Other Uses: No principal building shall be located in a manufactured housing park except manufactured housing and laundry, recreation, or other buildings maintained in connection with the operation of the manufactured housing or subdivision.
- 9.5.8 Screening: The proposed manufactured housing park will be effectively screened by the use of the existing natural features of the landscape and/or added landscaping at least six (6) feet in height which must be approved by the Planning Board.

## 9.6 **MOBILE HOME SUBDIVISIONS:**

Mobile home subdivisions will be allowed providing the following requirements are met:

- 9.6.1 Where Allowed: Mobile home subdivisions, consisting of a minimum of ten (10) acres, are permitted in the manufactured housing and mobile home district provided that all requirements which pertain to single-family houses are met. (Rev. 3/88)
- 9.6.2 Labeling: If a plat is submitted with a request for approval for a mobile home subdivision and such plat is approved, the plat shall bear the legend that it is "approved for mobile homes."
- 9.6.3 Screening: The mobile home subdivision will be effectively screened by the use of the existing natural features of the landscape and/or added landscaping at least six (6) feet in height, which must be approved by the Planning Board.

## 9.7 **UNIT LAYOUT:** (Repealed 3/00)

**SECTION X: LOCAL REGULATION OF EXCAVATION****10.1 AUTHORITY:**

This Ordinance is enacted pursuant to the authority granted the Town of Stratham to regulate earth moving activities within its boundaries under the provisions of Chapter 155-E: Sections 1-11 inclusive, of the NH Revised Statutes Annotated.

**10.2 PURPOSES:**

The purposes of this Section are to provide for the control of excavation of sand, clay, sod, loam, gravel or rock products and to provide an orderly procedure for such removal to take place while protecting the health, safety, and general welfare of the community. In addition, the purposes are to provide a method for restoration of the excavated area.

**10.3 REGULATOR:**

The Planning Board of the Town of Stratham is designated the Regulator as provided in RSA 155-E:1-11, inclusive.

**10.4 REGULATIONS:**

Pursuant to its responsibility as the Regulator, and in accordance with the provisions of RSA 155-E:11, the Planning Board is hereby authorized to adopt and from time to time amend regulations governing earth moving activities within the Town of Stratham to ensure that said activities are conducted in a safe manner in accordance with sound environmental practice, to protect against erosion, and to further provide proper assurances that suitable restoration of affected areas are obtained.

**10.5 ADMINISTRATION:**

No person, firm or corporation shall within the Town of Stratham undertake any clearing, grading, removal, excavation or other disturbance of land without first obtaining a permit from the Planning Board therefor, except the following:

- a. Excavation that is incidental to the lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs;
- b. Excavation that is incidental to agricultural or silvacultural activities, normal landscaping or minor topographical adjustment;
- c. Excavation from an area contiguous to or from contiguous land in common ownership with, stationary manufacturing and processing plants in operation as of the effective date of this Ordinance which use earth obtained from such areas;

- d. Excavation performed exclusively for the lawful construction, reconstruction or maintenance of a class I, II, III, IV or V highway by a unit of government having jurisdiction for the highway or an agent of the unit of government which has a contract for the construction, reconstruction or maintenance of the highway, provided that a copy of the pit agreement executed by the owner, the agent and the governmental unit shall be filed with and accepted by the Regulator prior to start of excavation but such excavation shall not be exempt from the provisions of RSA 155-E:4 and 155-E:10;
  - e. A person owning land abutting a site which was taken by eminent domain or by any other governmental taking upon which construction is taking place may stockpile earth taken from the construction site and may remove the earth at a later date after written notification to the appropriate local official.
- 10.5.1 Public Hearing: Prior to the granting or denying the permit, the Planning Board shall hold a public hearing on the application. All abutters shall be given notice of the proposed action.
- 10.5.2 Exhibits Required: The applicant shall be required to submit the following exhibits prior to the scheduling of the public hearing:
- a. A plan of the land involved which shall be prepared by a registered land surveyor or professional engineer which will show all man-made features, vegetative cover, property lines, and topography at four (4) foot contour intervals including land within 100 feet of where the proposed excavation is to take place.
  - b. A plan of the land involved showing the breadth, depth, and slope of the proposed excavation, and the estimated duration of the project.
  - c. A description of the types of materials to be excavated and the quantities of each material.
  - d. A plan and description of the access and visual barriers to public highways to be utilized in the proposed excavation.
  - e. The elevation of the highest annual average ground water table within or next to the proposed excavation.
  - f. A plan for the restoration of the area affected by the excavation in compliance with RSA 155-E:5, including a timetable therefor as to fully depleted sites within the excavation area during said project.
  - g. Other information that the Regulator may reasonably require.

10.5.3 Conditions: The Regulator may impose conditions pertaining to:

- a. The finished level and grading, the finished slope shall not exceed a grade level of one (1) foot vertical distance for each three (3) feet of horizontal distance unless a petitioner agrees to approved methods of sodding, grassing, rip-rapping, or the use of retaining walls. **(Rev. 3/88)**
- b. The placing of topsoil upon completion of excavation, to the depth of not less than four (4) inches, seeding, and planting with approved materials to restore the area to a usable condition.
- c. Control of temporary and permanent drainage.
- d. Disposition of boulders, vegetation, stumps and other debris including unused material and any structures used in connection with the operations.
- e. The construction of necessary fencing to protect against hazards.
- f. Vegetation to remain as a visual barrier.
- g. Hours of operation.
- h. Routes for transportation of material.

10.5.4 Prohibited Projects:

The Regulator shall not grant a permit:

- a. Where an excavation is proposed below road level within 50 feet of any highway right-of-way unless such excavation is for the purpose of said highway.
- b. For excavation within 50 feet of the boundary of a disapproving abutter or within 10 feet of the boundary of an approving abutter unless approval is requested by said abutter.
- c. When the excavation is not permitted by zoning or other applicable ordinance.
- d. When the issuance of the permit would be unduly hazardous or injurious to the public welfare.
- e. Where existing visual barriers in the areas specified in 10.5.2:b would be removed, except to provide access to the excavation.
- f. Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey.
- g. When excavation is planned beneath or adjacent to inland surface waters in such manner that a permit is required from the Water Supply and Pollution Control Commission, the Water Resources Board, the Special Board on Dredge and Fill or other state or federal agencies with jurisdiction over the premises; but the Regulator may approve the application when all necessary permits have been obtained; or

- h. Where the project cannot comply with the restoration provisions of RSA 155-E:5.

10.5.5 Fees and Expenses:

The Regulator shall charge a fee of \$50.00 for processing the excavation permit requests. The applicant shall also pay the expenses to cover the cost of notice, administrative expenses, review of documents, and other matters required by particular applications including but not limited to, engineering review, circuit rider review, etc. (Rev. 3/97)

- a. Notice: shall be paid at the rate of \$5.00 per abutter, and \$45.00 for costs and administrative expenses for public notice in one newspaper and three public places.
- b. Circuit Rider Review: The applicant shall pay expenses for Circuit Rider Review at the current billing rate of the Rockingham Planning Commission for any Circuit Rider review of a submitted application.
- c. Special Investigative Costs: The Board may require the applicant to pay reasonable costs of special investigative studies which may be necessary for the Planning Board to evaluate the impact of a proposed development.

- 10.5.6 Bond or Other Surety: The Regulator may require the posting of a performance bond or other security in amount sufficient to insure restoration of the site.

- 10.5.7 Expiration of the Permit: No permit shall be issued for a period of more than two (2) years providing that all conditions of the first permit have been met.

## 10.6 **ENFORCEMENT:**

The Planning Board may appoint an Enforcement Officer to enforce the provisions of any permit issued hereunder. Said Enforcement Officer shall have the powers and duties prescribed in RSA 155-E:10.

- 10.6.1 Existing Operations: Any owner of an existing earth excavation operation lawfully in existence prior to the effective date of this Ordinance and which is subject to the provisions thereof may continue such existing operation with permit as previously granted by the Board of Selectmen provided such operation is not substantially altered or enlarged except in conformance with this Ordinance or any regulations adopted pursuant thereto and further provided that the owner shall suitably restore said area of operation within one year following the intended cessation of the excavation or any completed section thereof so as to secure the area against any unsafe or hazardous conditions which may endanger the health and safety of the general public.

- 10.6.2 The Regulator or any person directly affected by violation of RSA 155-E may seek an order from the superior court requiring the violator to cease and desist from violating any provision of a permit or RSA 155-E and to take such action as may be necessary to comply with the permit and RSA 155-E. Attorney's fees may also be available. **(Adopted 3/97)**

**SECTION XI: WETLANDS CONSERVATION DISTRICT (OVERLAY)****11.1 PURPOSES:**

In the interest of public health, convenience, safety, and welfare, the regulations of this District are intended to provide guidance for the use of areas of the land with standing water or extended periods of high water tables:

- 11.1.1 To control the development of structures and land uses on naturally occurring wetlands which would contribute to the pollution of surface and ground water by sewage.
- 11.1.2 To prevent the destruction of natural wetlands which provide flood protection, recharge the ground water supply and the augmentation of stream flow during dry periods.
- 11.1.3 To prevent unnecessary or excessive expenses to the Town to provide and maintain essential service and utilities which arise because of unwise use of wetlands.
- 11.1.4 To encourage those uses that can be appropriately and safely located in wetlands areas.
- 11.1.5 To preserve wetlands for other ecological reasons such as those cited in RSA 482-A:1. (Rev. 3/91)
- 11.1.6 To preserve and enhance those aesthetic values associated with wetlands of this Town.

**11.2 AREA:**

- 11.2.1 The Stratham Wetlands Conservation District: Is defined as those areas of the Town that contain marshes, ponds, bogs, lakes, as well as soils that are defined as poorly or very poorly drained by the National Cooperative Soil Survey conducted by the USDA Soil Conservation Service.

The location of a wetland boundary in any particular case must be determined by onsite inspection of soil types. This data shall be prepared by a qualified soil scientist using the standards of High Intensity Soil Maps for New Hampshire. (Rev. 3/88)

The Stratham Wetlands Conservation District shall also include the borders of tidal marshes of the Squamscott River and Great Bay. Said borders are hereby defined as those areas adjacent to the Squamscott River and Great Bay with elevations of eight (8) feet or less above mean sea level (National Geodetic Vertical Datum of 1929).

- 11.2.2 The District as herein defined is shown on a map designated as the "Town of Stratham Wetlands Conservation District Map" and is a part of the official Zoning Map. Additional soil survey data prepared by a qualified



soil scientist may be substituted for the Wetlands Conservation District Map in determining the location of wetlands.

For a detailed explanation of soil types, refer to "Soils and Their Interpretation for Various Land Uses, Town of Stratham, Rockingham County, New Hampshire" on file with the Planning Board and the Soil Conservation Service in Exeter, N.H.

- 11.2.3 In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Stratham, that district whose regulations are the most restrictive shall apply.
- 11.2.4 In case the Building Inspector questions the validity of the boundaries of a wetland area on any particular piece of property, or upon the written petition of the owner or any abutter of the said property to the Planning Board, the Board may call upon the services of a qualified soil scientist to examine said area and report his findings to the Planning Board for their determination of the boundary. A qualified soil scientist shall mean a person qualified in soil classification and who is recommended or approved by the Rockingham County Conservation District. The cost of such appeal is to be borne by the petitioner.

### **11.3 PERMITTED USES:**

- 11.3.1 Permitted uses in areas containing poorly drained soils and within the tidal marsh borders of the Squamscott River and Great Bay as herein defined are as follows:
- a. Any Use Otherwise Permitted: By the Zoning Ordinance and State and federal laws that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging except as a common treatment associated with a permitted use;
  - b. Agriculture: Including grazing, hay production, truck gardening and silage production provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion;
  - c. Forestry and Tree Farming: To include the construction of access roads for said purpose. In areas herein defined as tidal marsh borders, the cutting of trees shall be limited to fifty percent (50%) of live trees in a 20-year period;
  - d. Wildlife Habitat: Development and management;
  - e. Recreational Uses Consistent with the purpose and intent of this Section;
  - f. Conservation Areas: And nature trails;
  - g. Water Impoundment: And the construction of well water supplies;

- h. Drainage ways: To include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.

11.3.2 Permitted uses in areas containing very poorly drained soils, marshes, bogs, open water and major streams are as follows:

- a. Uses specified: Under Section 11.3.1, (a-h) shall be permitted except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure, except as provided for in Section 11.3.2 (b) below, shall be permitted.
- b. The Construction of Fences, Footbridges, Catwalks and Wharves Only: provided: 1) said structures are constructed on posts or pilings so as to permit the unobstructed flow of water; 2) structures do not obstruct navigation on tidal creeks; 3) the natural contour of the wetland is preserved; and 4) the Planning Board has reviewed and approved the proposed construction.

#### 11.4 CONDITIONAL USES:

11.4.1 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction of roads and other access ways, and for pipelines, powerlines, and other transmission lines provided that all of the following conditions are found to exist:

- a. The proposed construction is essential to the productive use of land not within the Wetlands Conservation District;
- b. Design and construction methods will be such as to minimize detrimental impact upon the wetland;
- c. The proposed construction design of powerlines, pipelines, or other transmission lines includes provisions for restoration of the site as nearly as possible to its original grade and condition;
- d. No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible;
- e. Economic advantage alone is not reason for proposed construction.

11.4.2 Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to the Board of Selectmen. The Security shall be submitted in a form and amount, with surety and conditions satisfactory to the Selectmen and approved by Town Counsel to ensure that the construction has been carried out in accordance with the approved design. The Security shall be submitted and approved prior to issuance of any permit authorizing construction.

- 11.4.3 The Planning Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

## **11.5 SPECIAL PROVISIONS:**

- 11.5.1 Areas designated as poorly drained soils (“Type B Hydric”) may be utilized to fulfill the minimum lot size required by Town ordinances, and subdivision regulations provided that a contiguous non-wetland area of 30,000 square feet is provided for each lot. This contiguous non-wetland area must be sufficient in size and configuration to adequately accommodate all housing and required utilities such as sewage disposal, water supply, and all applicable setbacks. **(Rev. 3/92)**
- 11.5.2 No very poorly drained soils or bodies of water may be used to satisfy minimum lot size.
- 11.5.3 The following buffer provisions shall apply: **(Rev. 3/88)**
- a. No subsurface wastewater disposal system shall be constructed within 75 feet of any very poorly drained soil (type A hydric) or 50 feet of any poorly drained soils (type B hydric). **(Rev. 3/92)**
  - b. All construction, forestry, and agriculture activities within 100 feet of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetlands. The Planning Board may require an erosion control plan approved by the Rockingham County Conservation District for any project undertaken up-grade of a wetland. No building activity (building does not include septic systems) shall be permitted within 100 feet of any very poorly drained soil and within 50 feet of any poorly drained soil except as provided in subsection c of this section. Where required, permits from the New Hampshire Water Supply Pollution Control Commission, under RSA 149:8-a and the Wetlands Board under RSA 482-A, shall be obtained. **(Rev. 3/91)**
  - c. Where an existing building within the buffer zone is destroyed or in need of extensive repair, it may be rebuilt provided that such rebuilding is completed within two years of the event causing destruction. The new or rebuilt structure shall not extend further into the wetland or buffer area than the original foundation.
  - d. There shall be a “no-disturbance” buffer zone within twenty-five (25) feet of Hydric B soils and fifty (50) feet of Hydric A soils. This area will remain in its natural state and will not be subject to grading, excavation, filling or any other activity associated with the development of land. **(Rev 3/03)**

**SECTION XII: SHORELAND PROTECTION DISTRICT: (OVERLAY)****12.1 AUTHORITY:**

This Section is enacted in accordance with the provisions of RSA 674:16-17 and RSA 674:20-21.

**12.2 PURPOSE:**

The purpose of these shoreland protection provisions is to protect and promote environmental quality, public health, resource conservation, and the general welfare of the public, with particular attention to the special cultural and ecological significance of the Great Bay estuarine system.

**12.3 OBJECTIVES:**

The objectives of this Section are to:

- a. Promote the preservation and maintenance of surface water quality in Stratham;
- b. Conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas;
- c. Preserve and enhance those aesthetic values associated with the natural shoreline;
- d. Encourage those uses that can be appropriately located adjacent to shorelines.

**12.4 DEFINITIONS:**

The following definitions specifically apply to this Section of the Zoning Ordinance:

- 12.4.1 Shoreland: The land areas included within the Shoreland Protection District.
- 12.4.2 Shoreline: The water's edge at mean high water.
- 12.4.3 Tidal Marsh: As defined in the Administrative Rules of the New Hampshire Wetlands Board as amended, pursuant to RSA 482-A. (Rev. 3/91)
- 12.4.4 Mean High Water: As determined according to the published tables and standards of the National Ocean Survey, adjusted to the locality from such tables.

## 12.5 DISTRICT BOUNDARIES:

The Stratham Shoreland Protection District is defined to include all of the following:

- a. The areas of land within 150 feet horizontal distance of the shoreline of the Squamscott River and Great Bay Estuary.
- b. The areas of land within 150 feet horizontal distance of the upland extent of any tidal marsh adjacent to the Squamscott River and Great Bay Estuary.
- c. The areas of land within 100 feet horizontal distance of the seasonal high water level of all brooks and streams within the Town which appear on U.S.G.S. 7.5" (scale 1:24000) quadrangle maps for the Town of Stratham, as revised.

## 12.6 PERMITTED USES :

12.6.1 General: The following uses are permitted under this Section:

- a. Any Use Otherwise Permitted: By the Zoning Ordinance and by State and Federal laws that does not involve the erection of a structure, and does not alter the surface configuration of the land by the addition of fill or by dredging, except as a common treatment associated with a permitted use, and provided that a buffer strip of natural vegetation 75 feet in width along the Squamscott River, Great Bay Estuary, and associated tidal marshes, and 50 feet in width elsewhere, be maintained between the area of use and the shoreline or upland extent of the tidal marsh;
- b. Agriculture: Including grazing, hay production, truck gardening, and silage production, provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion and stream sedimentation;
- c. Forestry and Tree Farming: To include the construction of access roads for said purpose. Within the Shoreland Protection District the cutting of trees shall be limited to fifty percent (50%) of live trees in a 20-year period;
- d. Wildlife Habitat: Development and management;
- e. Recreational Uses: Consistent with the purpose and intent of this Section as defined in Section 12.2;
- f. Conservation Areas: And nature trails;
- g. Water Impoundment: And the construction of well water supplies;
- h. Drainage Ways: To include streams, creeks, or other paths of normal runoff water and common agricultural land drainage;

i. The Construction of Fences, Footbridges, Catwalks, and Wharves Only, provided:

- i. Said structures are constructed on posts or pilings so as to permit the unobstructed flow of water;
- ii. Structures do not obstruct navigation on tidal creeks;
- iii. The natural contour of the shoreline is preserved;
- iv. The Planning Board has reviewed and approved the proposed construction.

12.6.2 Conflicting Provisions: In the event that the provisions of the Shoreland Protection District are found to conflict with other provisions of the Stratham Zoning and Land Use Ordinance, the more restrictive shall apply.

12.6.3 Effect on Lot Size: Areas within the Shoreland Protection District may be considered as part of a minimum lot size normally required by the Zoning Ordinance and Subdivision Regulations of the Town of Stratham.

12.6.4 Special Exception for Lots of Record: Upon application of the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Shoreland Protection District provided that all of the following conditions are found to exist:

- a. The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town;
- b. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Shoreland Protection District;
- c. Due to the provisions of the Shoreland Protection District, no reasonable and economically viable use of the lot can be made without the exception;
- d. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

## 12.7 CONDITIONAL USES: (Adopted 3/00)

12.7.1 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction of roads and other access ways, and for pipelines, powerlines, and other transmission lines provided that all of the following conditions are found to exist:

- a. The proposed construction is essential to the productive use of land not within the Shoreland Protection District;
- b. Design and construction methods will be such as to minimize detrimental impact upon the Shoreland Protection District;

- c. The proposed construction design of powerlines, pipelines, or other transmission lines includes provisions for restoration of the site as nearly as possible to its original grade and condition;
  - d. No alternative route which does not cross a Shoreland Protection District nor has less detrimental impact on the Shoreland Protection District is feasible;
  - e. Economic advantage alone is not reason for proposed construction.
- 12.7.2 Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to the Board of Selectmen. The Security shall be submitted in a form and amount, with surety and conditions satisfactory to the Selectmen and approved by Town Counsel to ensure that the construction has been carried out in accordance with the approved design. The Security shall be submitted and approved prior to issuance of any permit authorizing construction.
- 12.7.3 The Planning Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

**SECTION XIII AQUIFER PROTECTION DISTRICT (OVERLAY) (Adopted 3/92)****13.1 AUTHORITY AND PURPOSE:**

Pursuant to RSA 674:16-21, the Town of Stratham adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within the Town.

**13.2 DEFINITIONS:**

- 13.2.1 Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock.
- 13.2.2 Aquifer: For the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or public water supplies.
- 13.2.3 Dwelling Unit: Please review Section 2.1.20.
- 13.2.4 Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.
- 13.2.5 Groundwater Recharge: The infiltration of precipitation through surface soil materials into the groundwater. Recharge may also occur from surface waters, including lakes, streams, and wetlands.
- 13.2.6 Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes capable of releasing contaminants to the surrounding environment.
- 13.2.7 Non-Conforming Use: Please review Section 2.1.37.
- 13.2.8 Recharge Area: The land surface area from which groundwater recharge occurs.
- 13.2.9 Site Coverage: That portion of the entire parcel or site which, through the development of the parcel, is rendered impervious to groundwater infiltration.
- 13.2.10 Solid Waste: Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He P 1901.03. Solid waste includes solid, liquid, semi-solid, or gaseous waste material.
- 13.2.11 Structure: Please review Section 2.1.59.



- 13.2.12 Toxic or Hazardous Materials: Any substance which poses an actual or potential hazard to water supplies or human health if such a substance were discharged to land or waters of the Town. Hazardous materials include: volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids, and alkalies. Also included are pesticides, herbicides, solvents and thinners, and such other substances as defined in the NH Water Supply and Pollution Control Rules, Section Ws 410.04(1), in the NH Solid Waste Rules He-P 1901.3(v), and in the Code of Federal Regulations 40 CFR 261 as amended.

### 13.3 DISTRICT BOUNDARIES:

- a. Location: The Aquifer Protection District is defined as the area shown on the map entitled, "Aquifer Protection District", and is hereby adopted as part of the Town's Official Zoning Map. The Aquifer Protection District includes the area delineated by the groundwater mapping studies entitled, Lamprey/Exeter/Oyster River Study and Lower Merrimack/Coastal Study as prepared by the U.S. Geological Survey in 1990 and 1991 respectively. The Aquifer Protection District is an overlay district which imposes additional requirements and restrictions to those of the underlying district. In all cases, the more restrictive requirement(s) shall apply.
- b. Appeals: Where the bounds of an identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of a written appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question.

### 13.4 USE REGULATIONS:

- a. Minimum Lot Size: The minimum lot size within the Aquifer Protection District for each newly created lot shall be the same as allowed in the underlying zoning district. Larger lot sizes may be required depending on the soil-based lot sizing standards found within the Stratham Subdivision Regulations (Section 4.3).
- b. Maximum Site Coverage:
  - i. Within the Aquifer Protection District, no more than twenty percent (20%) of a single lot or building site may be rendered impervious to groundwater infiltration. To the extent feasible, all runoff from impervious surfaces shall be recharged to the aquifer on-site. Recharge impoundments shall have vegetative cover for surface treatment and infiltration.

- ii. Maximum impervious site coverage may exceed twenty percent (20%) provided that the following performance standards are met and the plans are approved by the Planning Board or its designated agent.
- c. The developer shall submit a stormwater drainage plan. Such a plan shall provide for the retention and percolation within the aquifer of all development generated stormwater runoff from a ten (10) year storm event, such that the post-development discharge volume to the aquifer is, at a minimum, equal to the pre-development discharge to the aquifer. Furthermore, the stormwater drainage plan shall provide for the removal of oil and gasoline from parking lot runoff by the use of treatment swales, oil/gas separators, or other devices, prior to retention and percolation of the runoff.
- d. Prohibited Uses:

The following uses are prohibited within the Aquifer Protection Zone:

  - i. On-site Disposal: Bulk storage, processing or recycling of toxic or hazardous materials or wastes.
  - ii. Underground Storage Tanks: Except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411). Storage tanks, if contained within basements, are permitted.
  - iii. Dumping of Snow: Carried from off-site.
  - iv. Automotive Uses: Including: car washes, service and repair shops, junk and salvage yards.
  - v. Laundry: And dry-cleaning establishments.
  - vi. Industrial Uses: Which discharge contact type wastes on site.
- e. Conditional Uses: The following uses, if allowed in the underlying zoning district, are permitted only after approval is granted by the Planning Board:
  - i. Industrial and Commercial Land Uses: Not otherwise prohibited under 13.4.d. of this Ordinance.
  - ii. Multi-family: Residential development.
  - iii. Sand and Gravel Excavation: And other mining provided that such excavation or mining is not carried out within six vertical feet of the seasonal high water table.
  - iv. Animal Feedlots: And manure storage facilities provided the applicant consults with the Rockingham County Conservation District (RCCD) before such uses are established.
- d. The Planning Board shall grant approval for those uses listed above (e.i. through e.iv.) only after it is determined that all of the following conditions have been met:
  - 1. The use will not detrimentally affect groundwater quality, nor cause a significant long-term reduction in the volume of water contained in the aquifer or in the storage capacity of the aquifer;
  - 2. For the uses described in Sections 13.4.e., item i. and item ii., the Planning Board shall make this determination by applying the performance standard outlined in Section 13.4.c (stormwater management plan).

3. The use will discharge no wastewater on-site other than that typically discharged by domestic wastewater disposal systems;
4. The proposed use complies with all other applicable provisions of this Section.
5. All conditional uses shall be subject to inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted.

f. Permitted Uses:

The following activities may be permitted provided they are conducted in accordance within the intent of this Ordinance:

- i. Any Use Permitted by the Underlying District of the Zoning Ordinance: Except as prohibited in Section 13.4.d or regulated by Section 13.4.e of this Article.
- ii. Maintenance, Repair of Any Existing Structure: Provided there is no increase in impermeable surface above the limit established in Section 13.4.b of this Article.
- iii. Agricultural and Forestry Uses: Provided that fertilizers, pesticides, manure and other leachables are used according to best management practices as prescribed by the Rockingham County Conservation District, if applicable. All said leachables must be stored under shelter.

g. Special Exception for Lots of Record: Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Aquifer Protection District on a non-conforming lot provided that all of the following conditions are found to exist:

- i. The lot upon which an exception is sought was an official lot of record, as recorded with the Rockingham County Registry of Deeds, prior to the date on which this Section was posted and published in the Town.
- ii. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside of the Aquifer Protection District.
- iii. No reasonable and economically viable use of the lot can be made without the exception.
- iv. The design and construction of the proposed use will be consistent with the purpose and intent of this Section.

h. Non-Conforming Uses: Any non-conforming use within the Aquifer Protection District shall comply to the provisions of Section 5.1 of the Zoning Ordinance (Non-Conforming Uses).

### 13.5 MISCELLANEOUS PROVISIONS:

- a. Location: Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as, but not limited to, on-site waste disposal systems shall be located outside and down gradient of the Zone to the extent feasible.

**13.6 ADMINISTRATION:**

- a. Application and Interpretation: The provisions of the Aquifer Protection District shall be applied and interpreted by the Planning Board.
- b. Enforcement: The Board of Selectmen (or their duly designated agent) shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District.

## SECTION XIV: SEWAGE SLUDGE AND RESIDENTIAL SEPTAGE APPLICATION (Adopted 3/96)

### 14.1 PURPOSE AND INTENT:

The purpose of this Section is to promote and insure the public health and safety of the citizens of the Town of Stratham by imposing additional requirements for the land application and surface disposal of sewage sludge and residential septage as well as requirements which are more stringent than the requirements set forth in 40 CFR 503.1 et seq. See 40 CFR 503.5(b). Furthermore, it is the intent of this section to promote the continued use and viability of agricultural farm land and protect aquifer areas and their recharge areas while simultaneously promoting the economic and responsible management, handling and disposal of biosolids and residential septage via land applications. If at any time the Federal Government and or the State of New Hampshire, adopts more stringent requirements than the corresponding requirements of this Ordinance, the more stringent requirements shall control.

### 14.2 DEFINITIONS:

The words and terms of this Section shall be defined as set forth in the 1994 edition of 40 CFR 503.1 et seq. The following additional terms shall be incorporated into this ordinance:

- 14.2.1 Class B: refers to a specific classification and level of pathogen reduction in sewage sludge and residential septage.
- 14.2.2 Land Application: means the application of septage or sludge directly to the ground surface, whether or not the material is incorporated into the surface soil.
- 14.2.3 Owner: means the owner of land on which septage and/or sludge is placed.
- 14.2.4 Priority Pollutant Scan: means an analysis performed in accordance with test method 8240 of Test Methods for Evaluating Solid Waste, Volume IB, Laboratory Manual, Physical/Chemical Methods, identified as EPA SW 846, dated November 1986.
- 14.2.5 Stockpiling: means the placement of sludge on land for storage prior to land application.

### 14.3 USES:

14.3.1 Prohibited: The use and disposal of sewage sludge and residential septage, including, but not limited to, the stockpiling, treatment, and land application of sewage sludge, biosolids and/or septage is hereby prohibited in Aquifer/Water Supply Districts within the of the Town of Stratham, except as otherwise noted in this ordinance.

14.3.2 Exemptions: The following operations or activities shall be exempt from this Section:

- a. The hauling and/or transportation of sewage sludge and residential septage over municipal roads;
- b. The use of composted materials for residential lawn and garden applications. For the purposes of this ordinance sewage sludge, residential septage and/or *biosolids* shall not be used for residential lawn and garden applications.
- c. Municipal septage lagoons, as permitted under RSA 485-A.

#### 14.3.3 Allowed Uses:

Within all other zoned districts except those listed in section 14.3.1 above, Class B sewage sludge and residential septage may be stored, stockpiled, treated, applied, and/or transported to a specific site. This permitted use is subject to site plan review and meeting the requirements which are set forth in this Section, as well as any and all State and Federal standards or requirements, including the applicable requirements of 40 CFR 503.1 et seq.

In order to safeguard against adverse water quality and public health effects, all sludge and residential septage transported into, stockpiled within, or land applied must meet the Class B pathogen requirements of 40 CFR 503.32(a) and the vector control requirements of 40 CFR 503.33(a)(1) before it is transported into the Town of Stratham.

14.3.4 Uses by Conditional Permit: Within permitted zoned districts Class B sewage sludge and residential septage may to stored, stockpiled, treated, applied and transported to a specific site, which was formerly used or is presently being operated for the excavation of gravel, as permitted under RSA 155:E. The application shall be completed in accordance with the Best Management Practices, dated June 1995, as written by the University of New Hampshire Cooperative Extension. Said uses shall be subject to a conditional use permit and site plan approval from the Town of Stratham Planning Board.

**14.4 APPLICATION, NOTIFICATION, AND REPORTING REQUIREMENTS:**

In addition to complying with all record keeping and reporting requirements imposed by the State and Federal Government, any person planning to transport to, stockpile on, treat, or land apply sewage sludge or residential septage shall submit all of the following information to the Planning Board for Site Plan Review.

The applicant shall receive Planning Board approval, with any conditions as the Planning Board deems necessary, and shall, at a minimum, wait until the appeal period has lapsed prior to the receipt of the sewage sludge and/or residential septage. The following information shall be supplemental information required in conjunction with the Site Plan Review requirements for Planning Board review of proposed use, transport, stockpiling and/or land application of sewage sludge and/or residential septage:

**14.4.1 Site Plan Requirements:**

A site plan which illustrates the following with respect to any area in which sludge/septage is to be stockpiled, treated or applied to land:

- a. A plan, prepared at a scale not to exceed the scale of 1"=100', with 2' topographic contours and all relative property boundaries;
- b. A plan, prepared at a scale not to exceed the scale of 1"=100' which includes Order One Soil Survey information for the land application area and for the areas within 100' of the land application area;
- c. The location and size of the stockpiling area(s);
- d. The location, limits, and acreage of the land application area;
- e. The quantities of sewage sludge to be land applied and/or stockpiled and a stormwater management plan for the stockpile area. Stockpiles are not to be located less than 500' from a property boundary/line;
- f. All areas of hydric soils, streams and open bodies of water within 100 feet of the stockpiling, treatment and land application area(s);
- g. All adjacent wells, including the wells of all abutters, within 300 feet of the stockpiling, treatment and land application area(s);
- h. All roads within the Town of Stratham to be used for the transport of septage/sewage sludge, the frequency of use of these roads and the maximum quantities to be hauled on a daily/weekly/monthly basis;
- i. An on-the-ground delineation of the application area.

14.4.2 Written Reports for Site Plan Review Application:

- a. The name, address, telephone number, and NPDES permit number of the Sludge Generating Facility;
- b. The name, address, telephone number, and NPDES permit number of any and all Sewage Sludge Treatment Facilities, if different from the Generating Facility;
- c. The name, address, telephone number, date of birth and license number of the Sewage Sludge and/or Septage Hauler;
- d. The name, address, date of birth and telephone number of the landowner;
- e. The name, address, date of birth, mailing address, business and telephone number of the person stockpiling and applying the sewage sludge and/or residential septage to the land;
- f. The name, address, date of birth and telephone number of the applicant;
- g. Laboratory Reports of all test results in accordance with the Best Management Practices as written by the University of New Hampshire Cooperative Extension;
- h. The planned delivery date, or delivery dates;
- i. The planned stockpiling time period (s), the location if said stockpiles and the management measures proposed to minimize stormwater run-off and odor;
- j. A narrative description of the treatment method used to meet Class B Sewage Sludge and/or Residential Septage requirements;
- k. The total surface area of the planned application;
- l. The total sludge volume to be applied;
- m. Previous land application data, including the cumulative site loading to date, and the site loading from the previous 2 years;
- n. The number of land applications that can be performed without exceeding the cumulative pollutant loading rate set forth in Table Two (2) of 40 CFR 503.13;
- o. A description of the intended capacity and life of the site and whether septage, sludge or both will be applied;
- p. A certification prepared by a licensed soil scientist, that the soil limits shall not exceed standards as stated in the Best Management Practices as written by the University of New Hampshire Cooperative Extension as applicable;
- q. Written permission and/or executed contracts that any owner of land in a residentially zoned district consents to the stockpiling and/or application of sewage sludge and/or residential septage to their land by the applicant;



- r. A list of all local and state permits or approvals which are required and whether the permits/approvals have been obtained or are pending;
- s. A history of the site use covering 20 years immediately prior to submission of the application;
- t. Site or facility design plans and specifications in accordance with Part Env-Ws 806.
- u. Operating plans in accordance with Part-Env-Ws 806;
- v. Whether the applicant or any person participating in the septage/sludge generation or application process has been convicted on a criminal misdemeanor charge under any statute implemented by the State of New Hampshire Department of Environmental Services within five years prior to the date of application or on a criminal felony charge under any statute implemented by the Department of Environmental Services within ten years prior to the date of application; and
- w. If the above information raises questions relative to the adequacy of protection of the environment and public health or safety, such other information as the Planning Board determines necessary to assure compliance with these rules and to protect the public health and safety of the environment;
- x. If the applicant is not the owner, the application shall be accompanied by a written statement signed by the owner that the owner is aware that the application is being filed and has given permission to the applicant to file the application and to enter upon the land for the purposes of site investigation and construction and operation of the septage/sludge disposal site in the event that the Town of Stratham issues the permit.
- y. Each application shall be submitted in quadruplicate and shall be accompanied by a fee, the amount to be set by the Board and included in the Site Plan Review Regulations.

14.4.3 Site Plan Review Approval Conditions:

At a minimum the following conditions shall be imposed under the Planning Board's Site Plan Review process:

- a. Written Approval: No applicant shall take delivery of any sewage sludge and/or residential septage until such time as the Planning Board, or their duly authorized representative has provided the applicant with approval in writing. Such approval shall not be automatically given by the Board, but rather shall only be given once the Board has been fully satisfied that the applicant has met and will continue to meet the reporting requirements of this section, and has demonstrated to the Board that the proposed application will not present a threat to the health or public safety risk to the applicant, the property owner, the abutters of the land receiving sewage sludge and/or residential septage and any parcels which will be subject to or adjacent to land application.
- b. Stockpiling: The stockpiling of all Class B sewage sludge and/or residential septage shall be done in conformance with all State and Federal requirements, including the requirements of 40 CFR 503.1 et seq and Best Management Practices for Biosolids, except as noted below. In addition, Class B sewage sludge and/or residential septage may only be stockpiled on site if it is properly secured to limit airborne dispersal of sludge and/or residential septage from the pile, storm water transportation of the sludge and/or residential septage and infiltration of leachate from the sewage sludge and/or residential septage into the ground water. Sewage sludge and/or residential septage shall not be stockpiled for more than ninety (90) days from the first date of receipt. Storage of the sewage sludge and/or residential septage shall comply with the Best Management Practices. No stockpiling shall occur within 500 feet from any property line and 300 feet from on-site dwellings and private water supplies.
- c. Minimum Level of Materials: Any and all sewage sludge and/or residential septage must arrive on site in a Class B condition. No treatment will be permitted on the site, except for that treatment which has been pre-approved by the Planning Board or their duly authorized representative.

- d. Best Management Practices: The land application of all sewage sludge and/or residential septage shall be done in accordance with the general requirements and management practices set forth in 40 CFR 503.12 and 503.14 respectively and the Best Management Practices for Biosolids. In addition to meeting State and Federal Vector Attraction Reduction Requirements (VARRS), including those set forth in 40 CFR 503.33, (including at least one of the VARRS in Section 503.33(b)(1) through 503.33(b)(8) which must have been conducted at the generation site), all sewage sludge applied to the land must be incorporated into the soil within twenty-four hours of the application, unless a specific exemption has been granted by the Planning Board.
- e. Testing: All testing shall be conducted in accordance with the Best Management Practices, State requirements 40 CFR 503.1 et seq., and local requirements (Including the total recoverable analysis of the metals listed in Table 3, Section 503.13). These test results shall be completed by a certified laboratory and submitted to the Board of Selectmen with a certification from the applicant that the applications have not exceeded the above noted standards. Test results shall be submitted on a per load basis and before the applicant takes delivery of any sewage sludge in the Town of Stratham. These tests shall be conducted for each and every generation site and any and all testing costs shall be borne by the applicant.

14.4.4: Record Keeping:

- a. Every hauler permit holder shall maintain records of each load of septage hauled, including identification of the date hauled, the name and address of the client, the source of the septage hauled, and the disposal site or wastewater treatment facility at which the load was discharged.
- b. Every septage/sludge disposal site permit holder shall maintain records of each load of septage or sludge received at the site, including identification of:
  - i. The date received;
  - ii. The hauler delivering the load;
  - iii. The source of the material;
  - iv. The volume received; and
  - v. The town municipality(ies) from which the material originates.
- c. Every person who land applies or stockpiles sludge shall maintain records of each load of sludge received at each site, including identification of:
  - i. The date received;
  - ii. The hauler delivering the load;
  - iii. The source of the material;
  - iv. The sludge quality certification number, if applicable;
  - v. The volume received;
  - vi. The municipality(ies) from which the material originates.

- d. Records shall be maintained by the permit holder or the person undertaking the activity, as applicable, and shall be provided to the local municipality for review on an on-going basis.
- e. Records shall be maintained for a minimum of three years. Prior to disposing of any records, the permit holder or the person undertaking the activity, as applicable, shall submit a written request to the Board of Selectmen for permission to dispose of the records. If the Boards determine that no enforcement actions are pending or contemplated for which the records are or would be necessary, the Board of Selectmen and the Planning Board shall authorize the applicant to dispose of the records.

14.4.5: Site and Management Plan Requirements:

Each operating plan for a land application site shall include the following:

- a. Normal hours of operation of the site;
- b. Proposed route(s) of access to the site;
- c. Method of application and incorporation;
- d. Storage or stockpiling provisions;
- e. Anticipated source of material and anticipated service area;
- f. Quantity of material expected on a periodic basis, such as daily, weekly or monthly, and quantity of material expected over the entire life expectancy of the site, if applicable;
- g. The type of treatment required by 40 CFP 503 before application;
- h. Record keeping procedures;
- i. Measures to be taken to control vectors;
- j. A detailed odor control plan explaining the type of odors that will be generated by the activity and the procedures that will be used to address and resolve any odor complaints;
- k. Procedures for monitoring soil ph by UNH Analytical Services or by a method which produces results comparable to UNH Analytical Services' results and analysis of the sludge by a laboratory certified by the New Hampshire Department of Environmental Services or other appropriate agency, to analyze wastewater for VOCs and metals;
- l. If to be applied to an agricultural field, the applicant shall provide the following: a list of crops to be grown; the agronomic uptake rate calculations prepared in accordance with Best Management Practices (BMPs), the disposition of crops grown and the annual nitrogen loading and annual and lifetime heavy metals loading calculations; and any other specific management practices designed to ensure compliance with this ordinance.

14.4.6: Minimum Operating Standards for Land Application:

- a. The operation of all facilities which manage septage and/or sludge through land application shall comply with federal regulations as specified in 40 CFR 503, in accordance with an operating plan per ENV-Ws 806.02 and in accordance with the requirements specified in this ordinance;
- b. No spreading shall be done on frozen or snow covered ground or when the ground is wet due to precipitation or flooding;
- c. No spreading shall be done on land which has a slope greater than 8 percent, that is, an 8 foot rise in 100 feet;
- d. No spreading shall be done on any hydric soils as defined in Env-Ws 1014.02 or in areas exhibiting seasonal ponding;
- e. Stockpiling shall not be permitted on the 100-year flood plain;
- f. No person shall land apply septage or sludge in the following areas:
  - i. Within 500 feet of any off-site dwelling, off-site well or any surface drinking water supply;
  - ii. Within 300 feet of any on-site dwelling or on-site well;
  - iii. Within 100 feet of any public road or property boundary; or
  - iv. In areas where stockpiling of manure or keeping of farm animals is prohibited.
  - v. No sewage sludge or residential septage shall be placed within 150 feet of streams, tributaries, ponds, lakes, seeps, or wetland areas.
  - vi. Sludge shall be incorporated into the soil within 24 hours of spreading unless an exemption is granted by the Planning Board under 14.4.3.d of this section.

14.4.6: Sludge Management Requirements:

a. Transportation:

- i. Any person transporting sludge shall ensure that all vehicles are covered so as to not create odors or a public health hazard;
- ii. Sludge being transported to a land application or stockpiling site shall meet Class B pathogen requirements prior to being transported.

b. Stockpiling:

- i. No person shall stockpile sludge which has not met Class B pathogen reduction requirements;
- ii. No person shall stockpile sludge at a land application site for longer than ninety (90) days;
- iii. Any person stockpiling sludge for longer than 7 days shall cover the stockpile with an odor control material, such as lime, wood ash or cement kiln dust, to minimize odors;
- iv. Sludge shall be stockpiled as far as possible from any dwelling or well, but in no case closer than 500 feet.

c. Sludge Quality Certification:

- i. Prior to stockpiling or land application of any sludge, the person proposing to undertake the activity shall obtain a sludge quality certification as specified in this section.
- ii. To apply for a sludge quality certification, the person shall submit the following to the appropriate State or Federal Agency as applicable:
  - 1. Name and address of the treatment facility which has generated or will generate the sludge;

2. Name, title, and telephone number of the person who is responsible for the operation of the treatment facility;
3. Description of all wastewater contributors and the chemical constituents of their wastewater;
4. The volume of sludge generated monthly by the treatment facility for the last two years;
5. The discharge monitoring reports from the treatment facility for the last two years;
6. A description of the process to achieve Class A and B pathogen reduction requirements;
7. A priority pollutant scan of the sludge from the treatment facility taken within the last six months;
8. An analysis of at least three representative samples of sludge from the treatment facility, taken at least 30 days apart within the last 6 months, for the following:
  - a. Arsenic, measured as mg/kg;
  - b. Cadmium, measured as 25mg/kg;
  - c. Chromium, measured as mg/kg;
  - d. Copper, measured as mg/kg;
  - e. Percent dry solids;
  - f. pH;
  - g. Lead, measured as mg/kg;
  - h. Mercury, measured as mg/kg;
  - i. Molybdenum, measured as mg/kg;
  - j. Nickel, measured as mg/kg;
  - k. Percent ammonia nitrogen;
  - l. Percent nitrate-nitrite;
  - m. Percent total kjeldahl nitrogen;
  - n. Percent organic nitrogen;
  - o. Selenium, measured as mg/kg; and
  - p. Zinc measured as mg/kg.
9. Each application shall be submitted in compliance with applicable State and Federal regulations.

14.4.7. Testing: The Town of Stratham reserves the right to require security in accordance with RSA 674:44 to insure the proper management and application of septage and sludge. In the event that the Planning Board and/or the Board of Selectmen question the accuracy and authenticity of the materials being stockpiled and/or applied, they shall have the authority to have an independent consultant review any or all aspects of the septage and/or sludge operation at the owner's sole expense.

<b>SECTION XV: GROWTH MANAGEMENT &amp; INNOVATIVE LAND USE CONTROL</b> (Rev. 3/03)
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**15.1.1 AUTHORITY:**

The Section is enacted in accordance with both RSA 674:21 and 674:22.

**15.2 PURPOSES:**

The purposes of this section of the Zoning Ordinance are as follows:

- a. Establish a long-range growth management process to access and balance community development needs and consider regional development needs.
- b. Determine, monitor, evaluate, and establish a rate of residential growth in the Town that does not unreasonably interfere with the Town's capacity for planned, orderly, and reasonable expansion of its services to accommodate such growth.
- c. Provide a mechanism to allow for phased development of residential projects to manage the impact on municipal services.
- d. Provide a mechanism when municipal services are strained or overloaded to reduce the rate of residential growth to allow the Town time to correct any deficiencies that have developed.
- e. Protect the health, safety, convenience, and general welfare of the Town's residents.

**15.3 FINDINGS:**

The Town hereby finds that:

- a. The rate of population growth in the Town of Stratham has been among the fastest of any town in the immediate area, in Rockingham County, and in the State of New Hampshire.
- b. The Planning Board has prepared and adopted a Master Plan in accordance with NH RSA 674:3, 674:4 & 675:6
- c. The Planning Board has prepared and adopted a Capital Improvements Program (CIP) in accordance with NH RSA 674:5 – 674:8 & 675:6. This CIP is updated and amended annually by the Planning Board.
- d. The Planning Board implemented a plan for the periodic reporting of the increase in dwelling units, the issuance of building permits for new construction, the increase in school population, the capacity of municipal services, and other indicators of increase growth.

**15.4 INDICATORS OF GROWTH IMPACT:**

The Town hereby determines that the presence of the following conditions will constitute an indicator of growth impact. An indicator of growth impact occurs when:

- a. The average annual percent increase in building permits for dwelling units in Stratham for the past five years exceeds the same average of the combined six abutting communities.
- b. The average annual percent population growth in the Town of Stratham as reported by the Office of State Planning exceeds the same average of the combined six abutting communities.
- c. The number of students enrolled or projected for the coming year for any public school in the Stratham School System exceeds 85 percent of its stated capacity.
- d. The annual full value tax rate of Stratham as reported by the New Hampshire Department of Revenue Administration exceeds the average rate of the combined six abutting communities or Rockingham County for the reporting year.
- e. The number of dwelling units of all projects combined, for which approval is being sought from the Board, at any time of reporting, if approved could result in the conditions defined by a., b., c., or d. above.
- f. The number of public students enrolled or projected for the coming year for each school in the Stratham School System exceeds 100 percent of its stated capacity.
- g. The annual capital expenditures including debt service and capital outlay for combined municipal and school department expenditures exceed 20 percent of the total municipal and school department expenditures combined.



**15.5 PLANNING BOARD MONITORING:**

It is the responsibility of the Planning Board to monitor growth in the Town and to report on the following:

**15.5.1 Annual Reporting:**

- a. The Planning Board will by January 31<sup>st</sup> of each year report on the total number of dwelling units existing at the end of its previous calendar year. Existing units means all those units previously constructed and occupied plus those units constructed and from which Certificates of Occupancy were issued in the reporting year. In the same report, the Planning Board shall report on the status, as appropriate, of any phasing requirements or permit limitations in force in the reporting period.
- b. The Planning Board will by January 31<sup>st</sup> of each year report also report on the “indicators of growth impact” as determined in 15.4. This report shall indicate which growth indicators have been triggered.

**15.5.2 Periodic Reporting:** The Planning Board may at any time it determines it appropriate or necessary, issue written reports on the status of growth activity in the Town covering such topics as the number of dwelling units or lots being proposed for approval, or for which building permits are being sought, the condition and capacity of any municipal or school facility, the tax burden existing or anticipated on the Town's residents and/or any other topic affecting or related to the growth or finances of the Town.

**15.5.3 Notice of Growth Impact:** The Planning Board may at any time issue a Notice of Growth Impact, if it has determined, through 15.5.1 or 15.5.2, that any of the conditions in 15.4 exist. Said Notice would include a statement of whether those conditions could result in either 15.6 Phasing or 15.7 Permit Limitations.

Pursuant to the monitoring in 15.5.1, 15.5.2, or 15.5.3, the Planning Board shall make appropriate findings of fact, make recommendations for action, or take actions provided for in Section XV of the Zoning Ordinance as a result of its monitoring and reporting responsibilities.

## 15.6 PHASING OF DEVELOPMENTS:

If the Planning Board, through its monitoring, finds that indicator 15.4 a., b., c., d., or e. has occurred, then the Planning Board may at its discretion issue a Notice of Growth Impact in conformance with 15.5.3 to the Board of Selectmen, the Building Inspector, and the general public by posting a notice in the Town Hall. The phasing of future residential developments, as provided in RSA 674:21, is to prevent a strain on municipal services and therefore, to provide for orderly growth in Town. Phasing may be implemented as provided below:

- 15.6.1 Phasing Required: The Planning Board may require the phasing of a development for a period up to or less than five years for a project which is proposed to have 50 dwelling units (lots) or less. For a project larger than 50 units or lots, the Planning Board may require a longer or shorter period of phasing based on the size of the project and the potential impact of the number or type of units on the municipal services of the Town. The Planning Board shall make appropriate findings of fact to substantiate the need, time, and limit for required phasing based on the size of the project and the potential impact from the number or type of units on municipal services.
- 15.6.2 Effect of Phasing: Once a phasing plan has been approved by the Planning Board, the project shall not be affected by any permit limitations subsequently enacted under the provisions of Section 15.8.4 of this Ordinance, provided that the developer secures permits for and begins substantial construction on the project on the units in each yearly phase. In the event that substantial construction is not undertaken in any yearly phase, then the vesting of that phase shall be forfeited and the developer shall be subject to any limitations imposed by 15.8.4. For the purpose of this Section, substantial construction shall mean either (a) all dwelling units in that phase are constructed to a weather tight condition or (b) 50 percent of all dwelling units in that phase are completed and a Certificate of Occupancy has been given.
- 15.6.3 Termination of Phasing: The above constraints shall be removed when the Planning Board determines in its 15.5 monitoring procedures that phasing is no longer necessary.

**15.7 LIMITING THE ISSUANCE OF PERMITS:**

If the Planning Board finds through its monitoring that indicator 15.4 either a., b., c., d., or e., plus one or more of indicators f. or g. has occurred, then the Planning Board may at its discretion issue a Notice of Growth Impact in conformance with 15.5.3 to the Board of Selectmen, the Building Inspector, and the general public by posting a notice in the Town Hall. The annual permit limitation of residential developments, as provided in RSA 674:21, is to prevent a strain on municipal services and therefore, to provide for orderly growth in Town. Permit limitations may be implemented as provided below:

- 15.7.1 Interim Permit Limitations: Once a Notice of Growth Impact is issued, then no residential building permits shall be approved by the Building Inspector until after the hearing in Section 15.8 is held and until after the Planning Board has set the number of permits delineated in 15.8. The Planning Board has set the number of permits within 45 days of the Notice of Growth Impact being issued.

**15.8 PROCEDURES FOR PHASING AND PERMIT LIMITATIONS:**

Once a Notice of Growth Impact pursuant to 15.5.3 has been issued, then the following procedures will be observed:

- 15.8.1 Planning Board Findings: The Planning Board will issue appropriate findings of fact to accompany any Notice of Growth Impact issued pursuant to 15.5.3.
- 15.8.2 Public Hearing: Prior to invoking 15.6 Phasing or 15.7 Permit Limitations, the Planning Board shall hold a public hearing with ten days notice to seek input from the general public.
- 15.8.3 Determination of Action: After a public hearing in Section 15.8.2, the Planning Board shall deliberate and decide whether (a) phasing should be invoked (b) permit limitations should be imposed or (c) other appropriate action, and issue its decisions. Any decision will be issued within 45 of the Notice of Growth Impact.

- 15.8.4 Permit Limitations: The following provisions shall apply:
- a. The Planning Board as part of its decisions may specify what limitations are necessary in the issuance of permits for residential units up until and during any corrective action is taken by the Town and/or School District. In determining the number of permits to be issued, the Planning Board shall consider the severity of the municipal service burden, the amount of capacity remaining in the service, and the amount of time needed to correct the service problem. After determining those facts, the Planning Board shall set the number of dwelling unit permits that can reasonably be issued on an annual basis.
  - b. After the public hearing, the Planning Board shall set the number of permits to be issued for the one-year period following enactment of the limit or such other shorter period as may be desirable. At the end of the year or such other shorter period, the Planning Board shall hold a hearing to determine if the permit limitation should be removed or altered. After making findings of fact, the Planning Board may (a) extend the permit limitation, (b) alter the permit limitation, or (c) remove the permit limitation.
- 15.8.5 Phasing: The Planning Board as part of its decision may require phasing in accordance with the provisions of Phasing 15.6.
- 15.8.6 Equitable Distribution: In order to insure equitable distribution of available permits, no individual, partnership, corporation, or other entity or its related or affiliated entities or in the case of individuals their relatives or persons associated in business may receive more than 10 percent of the permits or permits for eight units, whichever is less, available during the limitation period.
- a. The Building Inspector shall consult with the Planning Board, and the Planning Board shall devise an administrative procedure necessary to insure equitable distribution of available dwelling unit permits under guidelines expressed above.
  - b. No application for a building permit will be accepted from any person who, in an attempt to avoid the building permit limitations of this Ordinance, has failed to pay fair consideration as defined by RSA 545:3 or any other person or entity who has the purpose of evasion of the limitations of Section 15 of this Ordinance.

**SECTION XVI: ADMINISTRATION****16.1 POWER AND AUTHORITY:**

For the purpose of this Ordinance, the Board of Selectmen is hereby given the power to appoint a Building Inspector and Code Enforcement Officer who shall perform the duties of their positions as designated in the various provisions of this Ordinance. The Building Inspector shall make inspections of all buildings in process of building and reconstruction. Both the Building Inspector and Code Enforcement Officer are responsible for reporting all Ordinance and code violations to the Board of Selectmen. In the absence of a Building Inspector and Code Enforcement Officer, the Board of Selectmen shall be given the powers and duties of the Building Inspector and Code Enforcement Officer as enumerated herein. (Rev. 3/94)

16.1.1 Building Inspector: The duty of administering and enforcing the provisions of this Ordinance and the current Stratham Building Code is hereby conferred upon the Building Inspector. (Rev. 3/88)(Rev. 3/02) It shall be the duty of the Building Inspector to:

- a. Review all applications for building, demolition, or other permits to determine that the purpose for which the permit is sought will conform to the provisions of this Section and issue permits if appropriate;
- b. Investigate promptly all possible Zoning Ordinance violations and report his/her findings in writing to the Board of Selectmen.

16.1.2 Building Code: All multi-family dwellings shall be constructed in conformance with the current Stratham Building Code and current NFPA-13 and 13D standards. (Rev. 3/88)(Rev. 3/02)

16.1.3 Code Enforcement Officer: (Rev. 3/94) The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to:

- a. Enforce the provisions of the Stratham Zoning Ordinance including ordinances relating to: dimensional requirements for building lots, lot coverage requirements, septic system placement and replacement, signs, parking, wetlands, floodplains, shorelands, aquifers, and wellhead protection;
- b. Investigates un-permitted and/or illegal construction/conversions/activities/apartments/uses per the Zoning Ordinance or other codes; and issues cease and desist orders for Ordinance and other code violations;
- c. Collects and keeps accurate records of fees and other reports required;

- d. Coordinates, assists and supports other Town departments and officials, as required;
- e. Answers questions of the public and directs them to the appropriate authority, if required.

## 16.2 **BUILDING PERMITS:**

The following conditions shall be observed.

- 16.2.1 **Permit Required:** Any person before commencing work on the erection or alteration of any building or structure must first obtain a permit duly granted for such erection or alteration by the Building Inspector. Before a permit shall be issued by the Building Inspector, he shall determine whether the proposed construction or alteration conforms to all the conditions of this Ordinance.
- 16.2.2 **Actions Limited:** No excavation for foundation nor the erection, construction or structural alteration of any structure or part of any structure shall be undertaken until a permit is issued by the Building Inspector. No such permit shall be issued before application has been made for a certificate of occupancy.
- 16.2.3 **Compliance:** No building permit may be issued for any premises unless the buildings and other structures and use of the premises comply with the provisions of this Ordinance or the terms of a variance granted by the Board of Adjustment; provided that a permit may be issued when the effect of the construction, reconstruction or alteration is to eliminate all violations of this Section on the premises.
- 16.2.4 **Other Approvals:** No building permit may be issued unless all necessary subdivision, site plan review, variance, and/or special exception approvals have been issued.
- 16.2.5 **Pending Changes:** The Building Inspector shall not issue any building permit where application for such permit is made after the first legal notice of proposed changes in the building code has been posted pursuant to the provisions of RSA 156-A:1-a or 156-A:1-b, or the first legal notice of proposed changes in the Zoning Ordinance has been posted pursuant to the provisions of RSA 674:16-18, if the proposed changes in the building code or Zoning Ordinance would, if adopted, justify refusal of such a permit. After final action has been taken on the proposed changes in the building code or the Zoning Ordinance, the Building Inspector shall issue or refuse to issue such a permit which has been held in abeyance pursuant to this Subsection.
- 16.2.6 **Exemptions:** The construction of small accessory buildings, under one hundred (100) square feet, together with minor alterations, repairs, and general upkeep of existing buildings shall be exempt from the provisions of Section 16.2.1. The placing of transient recreational vehicles in recreational camping parks or recreational areas is exempt from the provisions of Section 16.2.1.

- 16.2.7 Final Inspection: Upon completion of the construction authorized by a local Building Permit, the permit grantee shall return the permit to the Building Inspector. The Building Inspector will then make a final inspection of the authorized work in order to ensure compliance with this Ordinance and all applicable codes. (Rev. 3/94)

### **16.3 CERTIFICATE OF OCCUPANCY:**

The following conditions shall be observed.

- 16.3.1 Certificate Required: No structure intended for occupancy (whether residential or non-residential) shall be occupied or changed in use until a certificate of occupancy is issued by the Building Inspector. (Rev. 3/94)
- 16.3.2 Approval Before Occupancy: A certificate of occupancy for the use or occupancy of vacant land or for a change in the use of the land or for a change in the use of an existing building shall be applied for and issued before any such land shall be occupied or used or such land or building changed in use and such certificate shall be issued within ten days after application has been made providing such proposed use is in conformity with the provisions of this Ordinance.
- 16.3.3 Compliance: No certificate of occupancy shall be issued for any premises unless the proposed use of the land, buildings, driveway and other structures thereon comply with:
- a. The provisions of this Ordinance or the terms of a variance and/or special exception issued by the Board of Adjustment;
  - b. The provisions of a subdivision and/or site plan review approval;
  - c. All applicable housing, health, fire, safety, building codes, and ordinances;
  - d. The provisions required for the issuance of a Town Driveway Permit. (Rev. 3/91)

### **16.4 PROCEDURES FOR PERMITS:**

The following procedures shall be followed for a building and/or certificate of occupancy permits.

- 16.4.1 Applications: Applications for building permits, driveway permits, and certificates of occupancy must be made by the owner of the premises or his/her authorized agent. Applications for building permits and certificates of occupancy shall be in writing on forms prescribed by the Building Inspector.

- 16.4.2      Supporting Materials: All applications for building permits shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of each lot to be built upon. The size and location of each building to be erected upon each lot and such other information as may be necessary to enable the Building Inspector to determine the proposed structure and use of land will conform to the provisions of this Ordinance. All building plans will be submitted with applications for building permits. These plans will be submitted to a plan review agency to assure that the building codes are met. The expense incurred will be paid by the applicant. The Board of Selectmen or Building Inspector may waive this policy. (Rev. 3/88)
- 16.4.3      Records: (Amended 03-04) A record of all building permits and certificates of occupancy shall be kept on file in the office of the Building Inspector as set forth in NH RSA 33-A and Municipal Records Board department rules Mur 300 MUNICIPAL RECORDS. The substance and form of any and all records shall be determined by the Building Inspector, and as may be required by state and local regulations, and a copy shall be furnished on request to any person as required under NH RSA 91-A:4 and applicable Town Policies as may from time to time be amended.



**SECTION XVII: BOARD OF ADJUSTMENT****17.1 POWERS:**

The Board of Adjustment shall have the powers and duties specifically granted to it under RSA 674:33.

**17.2 MEMBERSHIP:**

The Board of Adjustment shall consist of five regular members and up to three alternate members who shall be appointed by the Board of Selectmen and be residents of the community as provided by the New Hampshire Revised Statutes Annotated under RSA 673:3 and 673:6.

**17.3 RULES:**

The Board of Adjustment shall adopt rules and regulations governing meetings, hearings, fees, and other matters for the proper functioning of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote, indicating such fact and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a matter of public record.

**17.4 MEETINGS:**

Meetings of the Board of Adjustment shall be held upon the call of the Chairman. All meetings shall be opened to the public.

**17.5 APPLICATIONS:**

Applications appealing an administrative decision, seeking a special exception, or requesting a variance shall be in writing, shall be signed by the property owner/applicant, shall be accompanied by such fees as the Board deems necessary to defray its costs in processing the application, and shall be accompanied by a drawn to scale plan of the property in question. The property plan shall contain such information as the Board determines to be necessary for it to reach a decision. In appropriate cases the Board may require that the plan be prepared by a registered professional engineer or registered land surveyor. The application shall list the name and current mailing addresses of each abutter to the property in question.

**17.6 HEARING NOTICE;**

The Board of Adjustment shall hold a public hearing on each application. Notice thereof shall be given as follows:

- 17.6.1 Mail: The applicant and all abutters shall be notified of the public hearing by certified mail, stating the time and place of the hearing, and such notice shall be given not less than five days nor more than thirty days before the date fixed for the hearing of the appeal. (Rev. 3/92)
- 17.6.2 Public Notice: A public notice of the hearing shall be posted at the Town Hall and one other public place and shall be published in a newspaper with a general circulation in the area, not less than five nor more than thirty days before the date fixed for the hearing of the appeal.
- 17.6.3 Costs: The cost of advertising and the cost of mailing the notices of hearing shall be payable prior to the hearing by the person making the appeal.

**17.7 HEARINGS:**

Hearings before the Board shall be conducted by the Chairperson, or, in his/her absence the Acting Chairperson, who may administer oaths and compel the attendance of witnesses. At all hearings before the Board, the burden shall be upon the applicant to establish that the administrative decision appealed from is erroneous; or show that the applicant has met the conditions established for a special exception; or to show that the applicant has met the criteria for granting a variance. Abutters and residents of the Town shall be permitted to speak on behalf of or against the appeal and to present evidence orally and/or in writing in support of their position.

The Board in accordance with the provisions of this Ordinance may reverse or affirm, wholly or partly, or may modify any such order, requirements, decision or determination made by the Building Inspector and/or Code Enforcement Officer. The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination of the Building Inspector and/or Code Enforcement Officer to decide in favor of the appellant on any matter upon which it is required to pass or to effect any variance from the strict applications of the provisions of this Ordinance. (Rev. 3/95)

**17.8 SCOPE OF REVIEW:**

The Board of Adjustment shall hear and decide appeals de novo from the decisions or orders of the Building Inspector and/or Code Enforcement Officer, requests for special exceptions as provided for in this Ordinance, and requests for variances to the terms of this Ordinance in accordance with the provisions delineated herein. (Rev. 3/95)

17.8.1 Administrative Appeals: The Board shall hear and decide appeals from the decisions or orders of the Building Inspector and/or Code Enforcement Officer concerning administration or enforcement of this Ordinance. Applications for appeal of a decision of the Planning Board must be filed within thirty (30) days from the issuance of the decision. Applications for appeal of an order from the Building Inspector and/or Code Enforcement Officer must be filed within seven (7) days of the order. (Rev. 3/95, 3/00)

17.8.2 Special Exceptions: The Board shall hear and decide requests for special exceptions provided for in this Ordinance. The Board shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of this Subsection. Appropriate conditions as set forth in Subsection 17.8.2.b. may be placed on special exception approvals when necessary. The Board shall deny requests for special exceptions that do not meet the standards of this Section.

a. Special Exceptions: shall meet the following standards:

- i. Standards provided by this Ordinance for the particular use permitted by special exception;
- ii. No hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials;
- iii. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;
- iv. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
- v. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools;
- vi. No significant increase of storm water runoff onto adjacent property or streets.

- b. Special Exception Approvals: may be subject to appropriate conditions including the following:
  - i. Front, side, or rear yards in excess of the minimum requirements of this Ordinance;
  - ii. Screening of the premises from the street or adjacent property by walls, fences, or other devices;
  - iii. Modification of the exterior features or buildings or other structures;
  - iv. Reasonable limitations on the number of occupants and methods and times of operation;
  - v. Grading of the premises for proper drainage;
  - vi. Regulation of design of access drives, sidewalks, and other traffic features;
  - vii. Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance;

17.8.3 **Variances**: (Rev. 3-04) As provided for in NH RSA 674:33-I(a), the Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that the conditions for a variance have been met. The decision of the Board shall be based on the evidence both written and oral which shall be presented at the hearing and as may be contained in the application. Abutters and residents shall be entitled to present testimony and other evidence to establish that the applicant either has or has not met all of the listed conditions below. No variance shall be granted unless all of the following conditions are met:

- a. No diminution in value of surrounding properties would be suffered,
- b. Granting the permit would not be contrary to the public interest,
- c. Denial of the variance would result in unnecessary hardship to the owner seeking it as defined by the following:
  - i. The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment,
  - ii. No fair and substantial relationship exist between the general purpose of the zoning ordinance and the specific restriction on the property,
  - iii. Granting the variance would not injure the public or private rights of others,
- d. By granting the permit substantial justice would be done, and
- e. The use must not be contrary to the spirit of the ordinance.



**17.9 FINDINGS OF FACT:**

The Board of Adjustment shall present findings of fact for all its decisions and shall enter such findings in its records.

**17.10 REPRESENTATIONS:**

Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or use which are subject to regulation pursuant to Subsection 17.8.2 or 17.8.3 shall be deemed conditions upon such special exception or variance.

**SECTION XVIII: FLOODPLAIN MANAGEMENT DISTRICT**  
**(OVERLAY)** (Enacted 3/89) (Rev. 3/00)

This ordinance, adopted pursuant to the authority of RSA 674:16 shall be known as the Town of Stratham Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Stratham Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Town of Stratham, NH" together with the associated Flood Insurance Rate Maps (FIRM), effective date May 17, 1989; which are declared to be a part of this Ordinance.

**18.1 DEFINITIONS:**

- 18.1.1 Area of Special Flood Hazard: is the land in the floodplain within Stratham subject to a one percent or greater chance of flooding in any given year. The area may be designated on the FIRM as zones A and AE.
- 18.1.2 Base Flood: means the flood having a one percent chance of being equaled or exceeded in any given year.
- 18.1.3 Basement: means any area of the building having its floor subgrade (below ground level) on all sides.
- 18.1.4 Breakaway Wall: means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.
- 18.1.5 Building: (see Structure, Section 18.1.28).
- 18.1.6 Building Inspector: means the Town Building Inspector or his agent.
- 18.1.7 Development: means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 18.1.8 FEMA: means the Federal Emergency Management Agency.

- 18.1.9 Flood or Flooding: means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- a. The overflow of inland or tidal water.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- 18.1.10 Flood Elevation Study: means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- 18.1.11 Flood Insurance Rate Map: (FIRM) means an official map of a community, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- 18.1.12 Flood Insurance Study: (see Flood Elevation Study, Section 18.1.10).
- 18.1.13 Floodplain or Flood-Prone Area: means any land area susceptible to being inundated by water from any source. See definition of Flooding (18.1.9).
- 18.1.14 Floodproofing: means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 18.1.15 Floodway: see Regulatory Floodway (18.1.24).
- 18.1.16 Functional Dependent Use: means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
- 18.1.17 Highest Adjacent Grade: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 18.1.18 Historic Structure: means an structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or:



- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - i. By an approved state program as determined by the Secretary of the Interior, or:
  - ii. Directly by the Secretary of the Interior in states without approved programs.
- 18.1.19 Lowest Floor: means the lowest floor of the lowest enclosed areas (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
- 18.1.20 Manufactured Home: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- 18.1.21 Mean Sea Level: means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- 18.1.22 100-Year Flood: (see Base Flood, Section 18.1.2).
- 18.1.23 Recreational Vehicle: means a vehicle which is (i) built on a single chassis, (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal uses. (Rev. 3/94)
- 18.1.24 Regulatory Floodway: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Boundary and Floodway Maps.
- 18.1.25 Riverine: means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- 18.1.26 Special Flood Hazard Area: means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and shown on the FIRM as Zone A and AE. See Area of Special Flood Hazard (18.1.1).

- 18.1.27 Start of Construction: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- 18.1.28.1 Structure: means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- 18.1.28.2 Substantial Damage: means damage or any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 18.1.30 Substantial Improvement: means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should be:
- a. The appraised value of the structure prior to the start of the initial repair or improvement, or:
  - b. In the case of damage, the value of the structure prior to the damage occurring. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a 'historic structure'.
- 18.1.31 Water Surface Elevation: means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**18.2 PERMIT APPLICATION:**

All proposed development in any special flood hazard areas shall require a Flood Hazard Development Permit. Applications for the Permit shall include the following: general information, site plan, surveyor's certification, building plans, certified floodproofing methods for non-residential structures, etc. Applications for the Permit can be obtained from the Town office. A fee of \$10.00 shall be charged for each permit, payable to the Building Inspector.

**18.3 DESIGN CRITERIA:**

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

- a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. Be constructed with materials resistant to flood damage;
- c. Be constructed by methods and practices that minimize flood damage; and
- d. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**18.4 SEWER DESIGN:**

Where new and replacement water sewer systems (including on-site systems) are proposed in flood-prone areas, the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

**18.5 RECORD OF CONSTRUCTION:**

The Building Inspector shall maintain for public inspection, and furnish upon request, any certification of floodproofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.

**18.6 STATE AND FEDERAL PERMITS:**

The Building Inspector shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

**18.7 WATERCOURSES:**

- 18.7.1 In reverie situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector.
- 18.7.2 Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.
- 18.7.3 Along watercourses that have a designated Regulatory Floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirements of this section.
- 18.7.4 Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**18.8 DISTRICT BOUNDARIES AND DESIGN:**

- 18.8.1 In special flood hazard areas, the Building Inspector shall determine the 100-year flood elevations. The Building Inspector may require a registered New Hampshire surveyor to delineate the 100-year flood zone, certified in writing. Flood elevations shall be determined in the following order of precedence according to the data available:
- a. In Zone AE, refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM or FHBM;
  - b. In unnumbered A zones, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from Federal, State, development proposals submitted to the community (example: subdivisions, site approvals, etc.) or other source.
- 18.8.2 The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zones AE and A that:
- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
  - b. That all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities shall:
    - i. Be flood proofed so that below the 100-year flood elevation the structure is watertight with the walls substantially impermeable to the passage of water;
    - ii. Have structural components capable of resisting hydrodynamic and hydrostatic loads and the effects of buoyancy; and
    - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
  - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;
  - d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:
    - i. The enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access, or storage;

- ii. The area is not a basement;
- iii. The area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- e. All recreational vehicles placed on sites within Zone AE shall either:
  - i. Be on the site for fewer than 180 consecutive days;
  - ii. Be fully licensed and ready for highway use; or
  - iii. Meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in paragraph (c) of Section 18.8.2

## **18.9 VARIANCES AND APPEALS:**

- a. Any order, requirement, decision or determination of the Building Inspector made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in NHRSA §676:5.
- b. If the applicant, upon appeal, requests a variance as authorized by NHRSA §674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
  - i. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
  - ii. That if the proposed variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
  - iii. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. The Zoning Board of Adjustment shall notify the applicant in writing that: (1) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and (2) such construction shall below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- d. The Town of Stratham shall (1) maintain a record of all variance actions, including their justification for their issuance, and (2) report such variances issued in its annual or biennial report submitted to FEMA’s Federal Insurance Administrator.

**SECTION XIX: TELECOMMUNICATION FACILITIES** (Adopted 3/97)**19.1 AUTHORITY:**

This ordinance is adopted by the Town of Stratham in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21 and procedurally under the guidance of 675:1, II.

**19.2. PURPOSE AND GOALS:**

This Ordinance is enacted in order to establish general guidelines for the siting of towers and antennas and to enhance and fulfill the following goals:

- 19.2.1 Preserve: The authority of Stratham to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- 19.2.2 Reduce: Adverse impacts such facilities may create, including, but not limited to; impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
- 19.2.3 Provide: For co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative sighting techniques, and sighting possibilities beyond the political jurisdiction of the Stratham.
- 19.2.4 Permit: The construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- 19.2.5 Require: Cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon Stratham.
- 19.2.6 Provide: Constant maintenance and safety inspections for any and all facilities.
- 19.2.7 Provide: For the removal of abandoned facilities that are no longer inspected for safety concerns and Code compliance. Provide a mechanism for Stratham to remove these abandoned towers to protect the citizens from imminent harm and danger.
- 19.2.8 Provide: For the removal or upgrade of facilities that are technologically outdated.

**19.3 DEFINITIONS:**

- 19.3.1 Alternative Tower Structure: Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- 19.3.2 Antenna: Shall mean any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- 19.3.3 FAA: An acronym that shall mean the Federal Aviation Administration.
- 19.3.4 FCC: An acronym that shall mean the Federal Communications Commission.
- 19.3.5 Height: Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- 19.3.6 Planning Board: Shall mean the Town of Stratham Planning Board and the regulator of this ordinance.
- 19.3.7 Preexisting Towers and Antennas: Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.
- 19.3.8 Telecommunications Facilities: Shall mean any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.
- 19.3.9 Tower: Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.



**19.4 SITING STANDARDS:**

19.4.1 General: The uses listed in this section are deemed to be permitted uses that may require further review under this ordinance in accordance with Section 19.7: conditional use permits. However, all such uses must comply with other applicable ordinances and regulations of Stratham (including Site Plan Review). The following tables represent the siting standards for the listed uses as delineated by the districts in which they are located in Stratham.

- a. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use or an exiting structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

19.4.2. Use Districts: (Amended 03-04)

	<b>New Tower Construction<sup>1</sup></b>	<b>Co-location on Pre-existing Tower<sup>2</sup></b>	<b>Co-location on Existing Structure<sup>3</sup></b>
<b>Industrial Zone:</b>	PCU	P	P
<b>Commercial Zone:</b> (GCN, CLIO, PRE & TC)	S/CU <sup>4</sup>	P	PCU
<b>Residential Zone:</b>	S/CU <sup>4</sup>	P	PCU

P = Permitted Use without Conditional Use Permit

PCU = Permitted Use with Conditional Use Permit

CU = Conditional Use Permit

S = Permitted by Special Exception

<sup>1</sup>An antenna may be located on a tower, newly constructed, under this Ordinance.

<sup>2</sup>An antenna may be located on a preexisting tower, constructed prior to the adoption of this ordinance.

<sup>3</sup>An antenna may be located on other existing structures with certain limitations (See 19.4.3 below).

<sup>4</sup>Additional requirements, which shall be included in any consideration of the location of any facility, shall include the following:

1. Shall be of an "Alternative" type tower structure as defined in the ordinance. Flag, light, or other flush mounted monopole types are recommended for location with any existing or proposed uses.
2. Shall be located as part of an existing municipal, office, commercial, industrial or multi family development which may include residential condominium developments or,
3. All facilities constructed as a camouflaged tree, shall be located on a parcel, which is no less than 10 acres, buffered by and integrated into the surrounding forestscape, and has a forest management plan which shall provide for the long-term protection of any forest buffers of the facility and associated structures.
4. All tower facilities and supporting structures shall be of a type and design to blend into the primary use of the site. It shall be the Planning Boards responsibility to review the architectural design of any and all supporting structures to ensure compatibility with surrounding properties.

19.4.3 **Height Requirements:** (Amended 03-04) These requirements and limitations shall preempt all other height limitations as required by the Stratham Zoning Ordinance and shall apply only to telecommunications facilities. These height requirements may be waived through the Conditional Use Permit process only if the intent of the Ordinance is preserved in accordance with 19.8: Waivers (e.g. where a 200' tower would not increase adverse impacts but provide a greater opportunity for co-location).

	<b>New Tower Construction</b>	<b>Co-location on Preexisting Tower</b>	<b>Co-location on Existing Structure</b>
<b>Industrial Zone:</b>	150'	Current Height + 15%	Current Height + 30'
<b>Commercial Zone: (GCN, CLIO, PRE &amp; TC)</b>	150'	Current Height	Current Height + 30'
<b>Residential Zone:</b>	150'	Current Height	Current Height

## 19.5 **APPLICABILITY:**

19.5.1 **Amateur Radio; Receive-Only Antennas:** This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.

- 19.5.2 Essential Services & Public Utilities: Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunication facilities is a use of land, and is addressed by this Article.

## **19.6 CONSTRUCTION PERFORMANCE REQUIREMENTS:**

- 19.6.1 Aesthetic and Lighting: The guidelines in this subsection shall govern the location of all towers, and the installation of all antennas. However, the Planning Board may waive these requirements in accordance with Section 19.8: Waivers.

- a. Towers shall either maintain a galvanized steel finisher, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness;
- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements;
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible;
- d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views;
- e. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.

- 19.6.2 Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna, as abandoned, at the owners expense through the execution of the posted security.

- 19.6.3      Building Codes-Safety Standards: To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna, as abandoned, at the owners expense through execution of the posted security.
- 19.6.4      Additional Requirements for Telecommunications Facilities: These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict:
- a.      Setbacks and Separation:
    - i.      Towers must be set back a distance equal to 125% of the height of the tower from any off-site residential structure;
    - ii.     Tower, guys, and accessory facilities must satisfy the minimum zoning district setback requirements;
    - iii.    Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.
    - iv      The setback required for any flag, light or other flush mounted monopole type facility shall be no less than that required within the underlying zone for any other structure after review by the planning board to ensure safe location of such facility.
    - v.      The Planning Board may after review, require additional setback distances to provide for safety and to reduce impacts to abutting residential properties.
  - b.      Security Fencing:
    - i.      Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
    - ii.     Flag, light or other flush mounted monopole type facility may not require fencing if after review by the planning board they are determined to have been safely integrated into the site.



- c.     Landscaping:
- i.       Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least 15 feet wide outside the perimeter of the compound;
  - ii.      In locations where the visual impact of the tower would be minimal or in the case of an “Alternative” design structure, the planning board may reduce or waive entirely the landscaping requirement;
  - iii.     Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

**19.7 CONDITIONAL USE PERMITS:**

- 19.7.1 General: All applications under this ordinance shall apply to the Planning Board for Site Plan Review, in accordance with the requirements as provided for in the Town's Site Plan Review Regulations. In addition, applications under this ordinance shall also be required to submit the information provided for in this Section.
- 19.7.2 Issuance of Conditional Use Permits: In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- a. Procedure on application: The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.
- b. Decisions: Possible decisions rendered by the Planning Board, include Approval, Approval with Conditions, or Denial. All decisions shall be rendered in writing, and a Denial shall be in writing and based upon substantial evidence contained in the written record.
- c. Factors Considered in Granting Decisions:
- i. Height of proposed tower or other structure.
  - ii. Proximity of tower to residential development or zones.
  - iii. Nature of uses on adjacent and nearby properties.
  - iv. Surrounding topography.
  - v. Surrounding tree coverage and foliage.
  - vi. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - vii. Proposed ingress and egress to the site.
  - viii. Availability of suitable existing towers and other structures as discussed in 19.7.3(c).
  - ix. Visual impacts on view sheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
  - x. Availability of alternative tower structures and alternative siting locations.
- 19.7.3 Information Required.: Each applicant requesting a Conditional Use Permit under this ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including; a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200' away), and any other information deemed necessary by the Planning Board to assess compliance with this ordinance. Furthermore, the applicant shall submit the following prior to any approval by the Board:
- a. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines;

- b. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30-day comment period, and the Town process shall become part of the application requirements;
- c. Each applicant for an antenna and or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence can consist of:

- i. Substantial Evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted;
- ii. Substantial Evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why;
- iii. Substantial Evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
- iv. Substantial Evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
- v. Substantial Evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable;
- vi. Substantial Evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.



- 19.7.4. Co-location Agreement: The applicant proposing to build a new tower, shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Stratham.
- 19.7.5 Coverage Engineering: The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with 676:4(I)(g).

## 19.8 WAIVERS:

- 19.8.1 General: Where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these regulations. The purpose of granting waivers under provisions of these regulations shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that ***all*** of the following apply:
- a. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property and will promote the public interest;
  - b. The waiver will not, in any manner, vary other provisions of the Stratham Zoning Ordinance, Stratham Master Plan, or Official Maps;
  - c. Such waiver(s) will substantially secure the objectives, standards, and requirements of these regulations;
  - d. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
    - i. Topography and other Site features;
    - ii. Lack of availability of alternative site locations;
    - iii. Geographic location of property;
    - iv. Size/magnitude of project being evaluated and availability of future co-location.

- 19.8.2     Conditions: In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- 19.8.3     Procedures: A petition for any such waiver shall be submitted in writing by the applicant with the application for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to provide this written request shall require an automatic denial.

## **19.9     BONDING AND SECURITY:**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with section 19.10.

## **19.10   REMOVAL OF ABANDONED ANTENNAS AND TOWERS:**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

**SECTION XX: SANITARY PROTECTION & SEPTIC ORDINANCE**

(Adopted 3/99)

**20.1 GENERAL:**

This Section is enacted in accordance with the provisions of RSA 674:16-17 and RSA 674:21.

20.1.1 No sewage disposal system shall be constructed or replaced unless designed in accordance with this Section of the Stratham Zoning Ordinance and the most recent edition of the Subdivision and Individual Sewage Disposal System Design Rules (as published by the Water Supply and Pollution Control Division). When conflicts arise, the more restrictive requirements shall apply. Applications and necessary design information shall be submitted to the Code Enforcement Officer, who in conjunction with the designated town review agent, shall determine compliance with this section.

20.1.2 No sewage disposal area shall be located closer than 75 feet from a well or 100 feet from a water body. No fill associated with a sewage disposal area shall encroach upon a drainage structure or drainage or utility easement. No sewage disposal area shall be built on slopes exceeding fifteen (15) percent average grade.

20.1.3 The Planning Board as part of any review may require a hydrogeologic study for all projects that: have one or more sewage disposal systems designed for a total on-site septic loading of 2,500 gpd or more; or are located within the Aquifer Protection District. The Board may require the applicant to pay for a design review of the proposed system by a licensed system designer or a professional engineer designated by the Board.

A hydrogeologic study shall be performed by a professional engineer, hydrologist, hydrogeologist, or other groundwater professional. All water testing is to be performed at an EPA approved laboratory. A hydrogeologic study will address:

- a. A hydrogeologic mapping of groundwater flow within the site;
- b. Existing background water quality;
- c. The location of and potential impacts to on-site and abutting water supply wells and septic systems;
- d. The location and capacity of the proposed septic system(s);
- e. Estimates of the transport of contaminants from the septic system(s) and of the constituent concentrations (i.e. nitrates) at the property boundary and at abutting water supplies;
- f. Groundwater mounding analysis.

The proposed sewage disposal system(s) shall not create groundwater degradation beyond the limits of the property line in excess of EPA water quality criteria for domestic supplies, as amended. Systems which violate these tenets shall be rejected.

- 20.1.4 Sloping Lots: Leaching fields may be constructed on sloping lots provided the natural grade of the proposed location does not exceed 15%. When the natural grade exceeds 5%, the WSPCD "50% rule" (Env-Ws 104.05) which allows up to 50% of the bed bottom to be less than four (4) feet from the SHWT may be used. However, the upgradient side of the bed bottom shall be at least three (3) feet above the SHWT.

- 20.1.5 All lots created after the effective date of this ordinance and all sewage disposal systems shall comply with this section of the Stratham Zoning Ordinance with the following additional requirements:

- a. The Town requires two (2) feet of natural permeable soil above the seasonal high water table (SHWT) beneath the sewage disposal area and sewage reserve area;
- b. Five feet of natural soil above bedrock or any impervious substratum is required beneath the sewage disposal area and sewage reserve area;
- c. Fill material when needed to raise the bottom of the leaching area above the SHWT, bedrock, or impervious substratum shall be medium to coarse textured sand;
- d. Test pits and septic reserve areas. Each undeveloped lot shall have at least two (2) suitable test pits, separated by at least fifty (50) feet. All test pits necessary for satisfying local regulations shall be witnessed by the designated agent of the town. Each newly created lot shall accommodate its own sewage. For cluster developments, all sewage shall be disposed of within the boundaries of the development.
  - i. New lots created subsequent to the adoption of this ordinance shall show a 5,000 square foot septic reserve as part of the subdivision process creating the lot.
  - ii. During design review phase each lot shall show a suitable sewage disposal area and a suitable reserve sewage disposal area of equal or greater size.
- e. The Planning Board, as part of a conditional use permit, may waive the requirements of this section in consideration of the following criteria:
  - i. The designed system complies with all State WSPCD rules provided no waivers are granted;
  - ii. The lot upon which the waiver is sought contains conditions which fulfills other purposes and goals of the Stratham Ordinance and presents a compelling justification for such waiver, or,
  - iii. The designed system for which the waiver is sought cannot feasibly be carried out on a portion or portions of the lot which complies more fully with this section of the ordinance.

- f. Before final subdivision approval by the Planning Board, and where individual lots were granted waivers as part of a conditional use permit in accordance with e), above, individual system designs shall be submitted showing compliance with the general requirements of this section. Where individual designs cannot comply with these general requirements, the Zoning Board of Adjustment shall grant a Special Exception for those designs provided the following:
  - i. The design shows a system that at least meets or exceeds the limits imposed as part of the waiver by the Planning Board;
  - ii. The design of the proposed system will, to the extent practicable, be consistent with the purpose and intent of this section;
  - iii. The applicant has exceeded other applicable minimum design requirements in an effort to mitigate impacts resulting from the limitations of the site;
  - iv. The applicant has demonstrated that no reasonable use of the property can be made;
  - v. The application complies with the provisions of §17.8.2 of the Stratham Zoning Ordinance.

20.2 **REPLACEMENT OF EXISTING SYSTEMS WITHOUTOUT  
EXPANSION OF DESIGN CAPACITY:**

Replacement systems with no expansion in original design capacity shall be reviewed and permitted by the Code Enforcement Officer in conjunction with the designated town review agent. Upon application to the Code Enforcement Officer, where a design fails to meet the requirements of this section, the Code Enforcement Officer has the authority to waive the general requirements of this section and may grant a special permit to construct a sewage disposal system provided the following provisions are met:

- a. The proposed system entails no expansion of use and is a replacement of the system previously occupying the lot;
- b. The previous system shall be discontinued. Only the proposed system shall be used once initial function is established;
- c. The design of the system shall comply with New Hampshire State WSPCD rules in effect at the time of approval, including waiver of these rules by the State permitting authority.

**20.3 REPLACEMENT OF EXISTING SYSTEMS WITH EXPANSION OF DESIGN CAPACITY:**

Replacement systems with expansion in original design capacity shall be reviewed and permitted by the Code Enforcement Officer in conjunction with the designated town review agent. Upon application to the Code Enforcement Officer, where a design fails to meet the requirements of this section, the Planning Board has the authority to waive the general requirements of this section and may grant a special permit to construct a sewage disposal system provided the following provisions are met:

- a. The use for which the permit is sought cannot feasibly be carried out on a portion or portions of the lot which complies more fully with this section of the ordinance;
- b. The design and construction of the proposed use will, to the extent practicable, be consistent with the purpose and intent of this Section;
- c. The applicant has exceeded other applicable minimum design requirements in an effort to mitigate impacts resulting from the limitations of the site.

**20.4 VACANT LOTS OF RECORD:**

Subsurface septic systems shall be reviewed and permitted by the Code Enforcement Officer in conjunction with the designated town review agent to determine compliance with this section.

20.4.1 Special Exception: Upon application to the Code Enforcement Officer, where a design fails to meet the requirements of this section the applicant can apply for a special exception. Upon appropriate findings, the ZBA shall grant a special exception to the general requirements of this section provided that all of the following conditions are found to exist:

- a. The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town;
- b. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which complies more fully with this section of the ordinance;
- c. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section;
- d. The applicant has exceeded other applicable minimum design requirements in an effort to mitigate impacts resulting from the limitations of the site;
- e. The applicant has demonstrated that no reasonable use of the property can be made;

- f. The application complies with the provisions of Section 17.8.2 of the Stratham Zoning Ordinance.

## **SECTION XXI: AMENDMENTS**

### **21.1 PROCEDURE:**

The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by the Revised Statutes Annotated of the State of New Hampshire.

## **SECTION XXII: VIOLATIONS and PENALTIES**

### **22.1 VIOLATIONS:**

Upon information from the Building Inspector and Code Enforcement Officer that the provisions of this Ordinance are being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance as provided by the Revised Statutes Annotated of the State of New Hampshire. (Rev. 3/95)

### **22.2 PENALTIES:**

Any person, firm or corporation violating any of the provisions of this Ordinance shall for each violation, upon conviction thereof, pay a fine of not more than one hundred (\$100.00) dollars for each day such violation shall exist.

## **SECTION XXIII: VALIDITY**

### **23.1 DECLARATION:**

If any section, clause, provision or portion of this Ordinance shall be held to the invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this Ordinance.

### **23.2 DATE OF EFFECT:**

This Ordinance, and amendments, shall take effect upon passage.

**APPENDIX A****- Record of Amendments Since 3/8/1987 Adoption -**

(includes reference to all Town Meeting changes from 2003 to 1988 [reverse chronological order])

**March 9, 2004 Town Meeting Amendments are located at the end of Appendix A****March 14, 2003 Town Meeting:**

- Article 2: Amended Section XI, Wetlands Conservation Overlay District of the Zoning Code, adding a new subsection (d) to Section 11.5.3 relating to non-disturbance of buffers within 25-feet of "Hydric B" wetland soils and within 50-feet of "Hydric A" wetland soils.
- Article 3: Amended Section VIII, Residential Open Space Cluster Development, Subsection 8.1.9 by modifying text relating to minimum density bonus of one lot. Added text related to preservation of unique land features as criteria for additional density bonuses. Clarified consistency of 35% frontage density-bonus standard.
- Article 4: Repealed Section XV, Growth Management and Innovative Land Use Control, and replaced it with revised text.

**March 12, 2002 Town Meeting:**

- Article 2: Amended Section XVI, Administration Provisions of the Zoning Code, to change "BOCA" Building Code reference to "Stratham" Building Code reference in Section 16.1.1 and in Section 16.1.2.

**March 13, 2001, Town Meeting:**

- Article 2: Amended the Zoning Map under Section 3.3 Interpretation of District Bounds to include the entire parcel (Tax Map 10, Lot 16) in the Town Center District.
- Article 3: Removed Section VI Parking Requirements from the Ordinance. Parking requirements will subsequently be adopted as part of the Site Plan Regulations.

**March 14, 2000, Town Meeting:**

- Article 2: Amended Section 4.1.3 to add the PRE zone and to modify the requirements for building separation.
- Article 3: Amended Section 4.2 (Table of Dimensional Requirements) to limit the size of buildings in the CLIO & GCM zones.
- Article 4: Comprehensively amended Section 5.1 pertaining to non-conforming structures and uses.
- Article 5: Defeated
- Article 6: Amended Section 17.8.1 for time periods for appeals of orders or decisions.
- Article 7: Amended Section 17.8.3 pertaining to variance procedures.
- Article 8: Amended Section IX Mobile Homes to remove 9.7 pertaining to cluster development.
- Article 9: Amended Section 15.4 Indicators of Growth Impact to address the change to a cooperative school district.
- Article 10: Comprehensively amended Section XVIII Floodplain Management District to comply with NFIP requirements
- Article 11: Amended Section 12, Shoreland Protection District by adding a Section 12.7 Conditional Uses to allow for conditional use permits for certain types of shoreland crossings.
- Article 12: Amended Table 4.2 for open-space setbacks requirements
- Article 13: Amended by petition Section 4.2 & 4.3 pertaining to frontage and lot size requirements in the R/A district.
- Article 14: Defeated



## - Appendix A -

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**March 14, 2000, Town Meeting: (continued)**

- Article 15: Defeated  
Article 4: Repealed Section XV, Growth Management and Innovative Land Use Control, and replaced it with revised text.

**March 9, 1999, Town Meeting:**

- Article 2: Modified the definition for Adult Use to include body piercing and tattoos  
Article 3: Editorial changes to Section 3.6 making endnotes into footnotes and changing endnote #1 into Section 3.5.6.  
Article 4: Defined *Self Storage or Warehousing* as a use and a permit by conditional use permit.  
Article 5: Generally modified Table 4.2 for the General Commercial District  
Article 6: Comprehensively amended the Stratham Zoning Ordinance to include a new Retirement Planned Community District.  
Article 7: Completely replaced and amended the existing Section VIII Cluster Developments with a new Section VIII Residential Open Space-Cluster Development by Conditional Use Permit.  
Article 8: Created a new Section XX coordinating all regulations and ordinances relative to septic design and review into one section within the Stratham Zoning Ordinance, and delete related sections from the Ordinance where appropriate.  
Article 9: Modified Section 15.6.1 of the Growth Management and Innovative Land Use Control to clarify the discretion of the Planning Board relative to the phasing of subdivisions.

**March 10, 1998, Town Meeting:**

- Article 2: Added definition of Light Industry to Section II; amended section 3.6.G to add item 11 Light Industry.  
Article 3: Repealed the Office Research Park (ORP) District and replaced it generally with the Commercial/Light Industrial/Office (CLIO) District.  
Article 4: Amended Section 3.6.B by moving "hostel" from § 1 to § 3.  
Article 5: Amended Section 3.2 Location the Official Zoning Map to adjust the boundaries of the new CLIO District to follow the rear property lines in the northeast corner of the District.  
Article 6: Amended the Official Zoning Map to change the currently zoned R/A land south of Route 101 to GCM.  
Article 7: Amended the Official Zoning Map to change the currently zoned R/A land east of and abutting Portsmouth Avenue and South of Bunker Hill Avenue to PRE.  
Article 8: Amended Section 5.2.6 and 2.1.26 to change the definition of junk and junk vehicles.

**March 11, 1997, Town Meeting:**

- Article 2: Added Definition for Kennel and Modify SPCA Use.  
Article 3: Cluster Developments: Modify Frontage, and Structure Setbacks for Single- and Multi-family Dwellings.  
Article 4: Excavations: Modify Fee Structure and Enforcement Provisions.  
Article 5: Growth Management Ordinance: Correct Citations and Modify Sunset Clause.  
Article 6: Signs: To Add a New Subsection in Section VII: Signs, (7.2.7) Computation of area; To Replace the Charts currently at Section 7.3 Permitted Signs.  
Article 7: Adopted Section XIX, Telecommunications Ordinance.  
Article 8: Defeated

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### **March 12, 1996 Town Meeting:**

- Article 2: Amended Section II Definitions, 2.1.6 Agriculture, Farm, Farming by adding additional language after the word "employees".
- Article 3: Amended Section 14.5.1 to replace the date with May 15 and 14.5.2 to replace dates with May 15 and November 15.
- Article 4: Amended all references to Route 51 to Route 101, sections of roadway from the newly numbered Route 101 to Stratham Circle as Route 108, and all sections of roadway from the Stratham Circle at the intersection of former Route 101 east to the Greenland town line as Route 33.
- Article 5: Amended Section II Definitions by adding, in appropriate alphabetical order, the definition for Open Space Setback. Renumbered definitions accordingly and added additional columns to Section IV Dimensional Requirements, Section 4.2-Table Of Dimensional Requirements.
- Article 6: Amended Section IV Dimensional Requirements by adding 4.1.3-allowing more than one building on a lot in the General Commercial Town Center, Industrial and Office/Research Park districts provided minimum distances of 60 feet separate each of the buildings.
- Article 7: Amended Section 7.2.3(e) by ending after the word "uses" and deleting the remainder of the sentence.
- Article 8: Amended Section V, by adding supplementary regulations dealing with outside storage.
- Article 9: Added a new Section XIV Sewage Sludge and Residential Septage Application and renumbered subsequent sections accordingly.
- Article 10: Added new sections F.13 and G.10 to Section 3.6, and added footnote #5 referencing special promotional sales and displays being allowed by permit only allowed for eight days annually, issued by permit from the Code Enforcement Officer.
- Article 11: Amended zoning Professional/Residential district on the zoning map contained in the Zoning Ordinance.

### **March 17, 1995 Town Meeting:**

- Article 3: Amended Section II, 2.1 Definitions 2.1.23 Frontage and 2.1.45 Setback, front: to allow minimum frontage on one street for a corner lot. Minimum front setbacks would apply on both streets.
- Article 4: Amended Sections 5.2.3 Sanitary Protection, 19.1 Violations, 16.7 Hearings, 16.8 Scope of Review, and 16.8.1 to include reference to the Code Enforcement Officer.
- Article 5: Amended Section 7.3 Permitted Signs to allow up to a ten-foot high freestanding sign for retail and service operations in Professional/Residential, Commercial, and/or Industrial Districts. The sign would be located a minimum of twenty feet from the lot line.
- Article 6: Amended Section 3.6 Table of Uses to allow Day Care Facilities by special exception within the Professional/Residential Districts.

### **March 8, 1994, Town Meeting:**

- Article 2: Amended Section XVII (Floodplain Management) to include a new Section 17.1.23 (definition of "recreational vehicle") and recodified the remaining definitions
- Article 3: Amended Section 3.3.4 (Interpretation of District Bounds) to add a footnote which clarifies the northern boundary of the Town Center District
- Article 4: Amended Section VII (Signs) to include a new Section 7.2.6 which provides a mechanism for dealing with nonconforming signs
- Article 5: Amended the dimensional table of the Sign Ordinance (Section 7.3) to establish new size standards for temporary real estate and contractor signs, roadside stands, greenhouses and nurseries, businesses, professional offices and other office uses; and deleted the maximum area limitations for both projecting and free standing signs

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### **March 8, 1994, Town Meeting: (continued)**

- Article 6: Amended Section XV (Administration) to reference the Code Enforcement Officer and describe the duties of this office
- Article 7: Amended Section 15.2 (Building Permits) to require the grantee of a building permit to return said permit to the Town in order to receive final inspection from the Building Inspector
- Article 8: Amended Section 15.3 (Certificate of Occupancy) to clarify when a certificate is required and delete Section 15.3.2 (Coincident Application). Also amend Section II (Definitions) to include a new Section 2.1.38 (definition of occupancy), and recodified the remaining definitions

### **March 9, 1993, Town Meeting:**

- Article 2: Amended Section 14.3 (Growth Control Ordinance - Findings)
- Article 3: Amended Section 7.2.1 (Signs - General Regulations, add new item d) and created two new definitions (contractor's signs, real estate signs) within Section II (Definitions), and recodified the remaining definitions
- Article 4: Amended Section 3.6 (Table of Uses) to add adult uses with accompanying footnote, and created a new definition for adult uses within Section II (Definitions), and recodified the remaining definitions

### **March 10, 1992, Town Meeting:**

- Article 3: Amended Section 2.1 (Definitions, add 2.1.10)
- Article 4: Added footnote to Section 3.3.4 (Interpretation of District Bounds)
- Article 5: Amended Section 8.7.2,d (Cluster Development Regulations)
- Article 6: Amended Section 8.7.7 (Cluster Development Regulations)
- Article 7: Amended Section 11.5.1 (Wetland Ordinance-Special Provisions)
- Article 8: Amended Section 11.5.3 (Wetland Ordinance-Special Provisions)
- Article 9: Reauthorized Section XIII, Stratham's Growth Management Ordinance
- Article 10: Amended Section 15.6.1 (Hearing Notice)
- Article 11: Amended Section III (Establishment of Districts and Uses)
- Article 12: Added new Section XIII (Aquifer Protection District) and recodified remaining sections

### **March 12, 1991, Town Meeting:**

- Article 2: Amended Section 2.1.60 (Definitions)
- Article 3: Amended Section 3.1 (Establishment of Districts)
- Article 4: Amended Section 3.4 (District Purposes)
- Article 5: Amended Section 4.2 (Table of Dimension Requirements)
- Article 6: Amended Section 3.6 (Table of Uses)
- Article 7: Amended Section 8.6.2 (Permitted Uses)
- Article 8: Amended Sections 11.1.5, 11.5.3(B), and Section 12.4.3 (Wetlands Conservation District and Shoreland Protection District)
- Article 9: Defeated
- Article 10: Defeated
- Article 11: Amended Section 3.6 (Table of Uses)
- Article 12: Amended Section 4.3 (Dimensional Requirements)
- Article 13: Amended Section 6.2 (Required Parking Spaces)

## - Appendix A -

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**March 12, 1991, Town Meeting: (continued)**

- Article 14: Amended Section 6.3.2 (Parking Requirement)
- Article 15: Amended Section 8.7.5 (Development Regulations for Cluster Developments)
- Article 16: Amended Section 14.3.4 (Certificate of Occupancy)
- Article 17: Amended Section 15.8.1 (Board of Adjustment, Administrative Appeals)
- Article 18: Amended Section 7.2.3 (Permitted Signs)
- Article 19: Amended Section 7.3 (Table of Permitted Signs)

**March 13, 1990, Town Meeting:**

- Article 4: Amended Section 2.1.7 (Definitions, Building)  
Amended Section 2.1.41 (Definitions, Setback, Front)  
Amended Section 2.1.42 (Definitions, Setback, Rear)  
Amended Section 2.1.43 (Definitions, Setback, Side)  
Amended Section 2.1.53 (Definitions, Structure)
- Article 5: Amended Section 2.1.15 (Definitions, Duplex)
- Article 6: Amended Section 4.2 (Table of Dimensional Requirements) by adding footnote "d" to the MAH, PRE, TC and GC districts
- Article 7: Amended Section 4.2 (Table of Dimensional Requirements) by changing frontage to 150 feet in IND district.
- Article 8: Added Section 2.1.2 (Accessory Apartment)  
Amended Section 3.6 (Table of Uses), by adding subsection A.6 (Residential Uses)  
Amended Section 5 (Supplementary Regulations) by adding Section 5.4 (Accessory Apartments)
- Article 9: Amended Section 8.5.1 (Cluster Development, Review Process)  
Amended Section 8.5.1(e)  
Amended Section 8.7.8 (Treatment of Open Space and/or Common Area)
- Article 10: Amended Section 8.7.3(b) (Cluster Development Regulations, Internal Dimensional Requirements)
- Article 11: Amended Section 8.7.7 (Cluster Development Regulations, Min Lot Size)

**March 14, 1989 Town Meeting:**

- Article 3: Amended Section 3.6.E.7 (Table of Uses) reference number
- Article 4: Amended Section 3.6.E.9, added public utilities footnote
- Article 5: Amended Section 5.2.3 (Certain Prohibitions)
- Article 6: Added Section 5.2.8 (Trailer Tractors)
- Article 7: Amended Section 7.3 (Permitted Signs)
- Article 8: Amend Section 8.7.2 (Dwelling Unit Density)
- Article 9: Added Section 8.7.6 (Minimum Common Area) and renumber
- Article 10: Repealed Section XIII and replaced with new Section XIII, Growth Management and Innovative Land Use Control
- Article 11: Added new Section XVI, Floodplain Management District and renumbered following sections
- Article 12: Amended Section 4.3.i, explanatory notes
- Article 13: Amended Section 4.2 by adding a footnote "e" to Town Center

## **- Appendix A -**

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### **March 8, 1988 Town Meeting:**

- Article 3: Amended Section 3.5.1 (Use Regulations)
- Article 4: Amended Section 5.2.3 (Certain Prohibitions)
- Article 5: Amended Section 8.3.e (Cluster Development, Objectives)
- Article 6: Defeated
- Article 7: Amend Section 8.7.3 (Cluster Development, Development Regulations)
- Article 8: Amend same section as Article 7
- Article 9: Defeated
- Article 10: Deleted Section 8.7.6 and added Minimum Lot Area
- Article 11: Delete sentence 9.6.1 and added Section 9.7 Unit Layout
- Article 12: Amended Section 10.5.3.a (Excavation)
- Article 13: Amended Section 11.2.1 (Wetlands Conservation)
- Article 14: Amended Section 11.5 and added Buffer Provisions 11.5.3
- Article 16: Amended Section 14.1.1 (Building Inspector)
- Article 17: Amended Section 14.1.2 (Building Code)
- Article 18: Amended Section 14.4 and added 14.4.2(a) (Supporting Materials)

### **March 8<sup>th</sup>, 1987 Town Meeting:**

- Article 2: Updated Zoning Code Adopted. The Town of Stratham originally adopted zoning regulations at town meeting on March 12<sup>th</sup>, 1957.

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### **March 9, 2004 Town Meeting**

- Article 2: To amend Section 17.8.3 Board of Adjustment - Variances, to bring the requirements for the granting of a variance into compliance with current Supreme Court Case Law and NH RSA's.
- Article 3: To amend Section 19.4 Telecommunication Facilities – Siting Standards, and 19.6 Construction Standards, to expand the ability to locate telecommunication facilities by Special Exception and Conditional Use Permit within certain zones in the community. Additional requirements that any facilities be of such a nature that be camouflaged or pole in nature. (This amendment will set strict requirements for the granting of any Conditional Use Permit as to the type and location of any facility.)
- Article 4: Defeated
- Article 5: To amend Section 16.4.3 ADMINISTRATION, Records, to add a reference to the Municipal Records Act as set forth in RSA NH RSA 33-A: Disposition of Municipal Records, and Department Rules Mur 300 MUNICIPAL RECORDS, which shall require the Building Inspector to keep all records in compliance with all Board rules and regulations and to NH RSA 91-A:4 Access to Public Records, Minutes and Records Available for Public Inspection and applicable Town Policies relating to the availability and form of public records.
- Article 6: To amend Section 8.1 RESIDENTIAL OPEN SPACE – CLUSTER DEVELOPMENT, subsection 8.1.9 Density Bonus, to allow for a density bonus for the development Elderly Housing and for a bonus for the inclusion of Workforce Housing within Residential Open Space developments. This amendment also sets certain performance standards for the granting of any density bonus under this section. This amendment also includes definitions for Elderly Affordable Housing and Workforce Affordable Housing.
- Article 7: Defeated